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Develop Customs Due Diligence and Supply-Chain Security Guides for the Trade Community of Jordan

By:
Mohammed Tarawneh

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**Develop Customs Due Diligence and Supply-Chain
Security Guides for the Trade Community of Jordan**

Final Report

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ABSTRACT

This paper introduces to Jordan trade/ supply chain companies (importers, exporters, customs brokers, transporters, freight forwarders and warehouse operators) the benefits and mechanisms of developing and implementing customs due diligence and supply-chain security standards so that they gain a leading edge advantage in international trade.

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EXECUTIVE SUMMARY

The goal of this project is to introduce to Jordan trade/ supply chain companies (importers, exporters, customs brokers, transporters, freight forwarders and warehouse operators) the benefits and mechanisms of developing and implementing customs due diligence and security standards so that they gain a leading edge advantage in international trade. The treatment of customs due diligence under the current Jordan customs law, and the willingness of Jordan trade community to implement their own due diligence standards are examined as well.

This report examines the following areas. The first section provides a technical background on the subject matter including a description of Jordan Customs Department's recently-launched voluntary, self-compliance program, called Golden List Program. The methodology used in this study is also described in this section.

The second section describes a customs due diligence guide developed for Jordan supply chain companies to assist them develop and implement their own internal due diligence systems. The guide was intended to educate Jordan supply chain companies on the importance and benefits of customs due diligence, provide them with examples on due diligence practices, and explain the implementation steps to be undertaken by them to develop and implement their own due diligence systems.

The third section describes a supply-chain security guide developed for Jordan companies to assist them develop and implement their own supply-chain security management systems. The guide was intended to educate Jordan companies on the importance and benefits of supply-chain security management systems. Also, the guide was intended to provide companies with several security measures/ best practices with respect to general security requirements, personnel security, physical security, operations security, cargo handling security, documents and data security and security measures pertaining to forwarders and transporters, warehouses and terminals operators, stuffers and packers and information processors.

The forth section describes a narrative supply-chain security pamphlet developed for Jordan companies. The pamphlet was intended to be a promotional tool of supply-chain security management systems. The pamphlet highlights the main features of the security guide described in the previous paragraph.

The fifth section presents the findings of a survey questionnaire completed by nearly 100 Jordan trade/ supply chain companies. The questionnaire asked formal and informal questions about the willingness of Jordan supply chain companies to implement their own due diligence and security standards and to join the voluntary Golden List Program of Jordan customs department. Also, the questionnaire asked supply chain companies to list the benefits (incentives) they would like to have from Jordan customs department in reward for becoming members of the Golden List Program. The list of benefits (incentives) was intended to provide guidance to Jordan customs department and Jordan supply chain companies in developing a strategy for reward (incentives) for the companies validated by Jordan Customs as Golden List members.

The sixth section offers an examination of Jordan customs law, Law No. (20) 1998, with the aim of identify the relevant articles, if any, that in one way or another encourage exercising customs due diligence by Jordan trade community. Title VI of the North American Free Trade Agreement Implementation Act, also known as the Customs Modernization or "Mod"

Act, was also examined in this section. The examinations of Jordan customs law and the Mod Act have led into a recommended set of amendments and/ or new articles to be introduced into Jordan customs law.

Finally, the seventh section details the results of the half-day meeting held on October 13, 2004, to present the findings of this project to representatives of Jordan Customs Department, many other concerned government organizations, and nearly 80 private-sector trade companies. Presentations were made by the International Research Corporation and the AMIR Program, and participants then reached a consensus through discussion about the concrete steps necessary to implement the project's findings.

The stakeholders present at this meeting were unanimous in their view that the Golden List Program of Jordan Customs is considered a modern tool for improving customs compliance and freight security; thus deserves the business community's support via taking all necessary steps to participate in it. The business community present at the meeting agreed that they should start voluntarily reviewing their internal processes and implement their own due diligence standards.

The business community of Jordan who were present at the meeting were unanimous in their view of the need for implementing supply chain security measures as an important tool to increase Jordan's export capacity to the United States of America, the European Union Countries and all other trade partners.

All attending parties agreed on this study's recommendation that Jordan Customs Department undertakes a review of its current law to include the modern concepts of reasonable care, prior disclosure, regulatory audit and record keeping.

Finally, all stakeholders respectfully requested that the United States Agency for International Development (USAID) continue to support the AMIR Program for the implementation of the due diligence concepts, the implementation of supply chain security measures, and the implementation of the Golden List Program in general.

RECCOMENDATIONS

1. The Jordan Customs Department fulfill its commitment to perform compliance audits by qualified auditors within the first three months of 2005.
2. The three draft documents prepared and submitted to the Jordan Customs Department on Due Diligence, and Supply Chain Security be finalized and issued within the first quarter of 2005 as official documents of the Jordan Customs.
3. The proposed legislative changes to support an informed, voluntary compliance strategy as outlined in this report be finalized and submitted by Customs to the legislative body within the first six months of 2005.
4. The Customs work with the private sector in a select committee including representatives of the Jordan companies participating in the test of the due diligence models in the first six months of 2005 to identify all possible ways under the existing customs law to identify and implement procedural changes to support an informed voluntary compliance.
5. By July 31, 2005 the Jordan Customs finalize the due diligence guidelines previously drafted and tested into official documents of the Jordan Customs.

INTRODUCTION

Background

In modern Customs practice a primary objective of risk management is a concentrated effort to identify and encourage low risk shipments. By the elimination of low risk shipments from the workload, Customs can direct its limited resources to find and intercept shipments that may present revenue, health, safety or security risks. To achieve this goal, Customs must work in partnership with honest participants in the international trading system. Both sides must do their part. Informed, voluntary compliance eliminates the need for inspecting every shipment every time. To be voluntarily compliant, the international trade community participants must develop and implement documented systems of self-regulation. This self-regulation ensures that the businesses exercise reasonable care or due diligence. There are three key elements essential for an international transaction to qualify as low risk:

1. The associated businesses to the transaction must have a history of apparent compliance.
2. The associated businesses have been the subject of a compliance audit by Customs or an independent organization fully qualified and accredited to conduct a customs compliance audit.
3. The associated businesses have a functional, documented due diligence system. A due diligence system simply put, is a documented process to insure that the company is taking reasonable steps to insure compliance with the international trade related laws and procedures.

The most advanced application of the low risk, due diligence process is currently in the United States. In the past, the emphasis has been on the application of the low risk process for importers. Now, the application of documented low risk applies to the entire supply chain; including importers, exporters, customs brokers, transporters, freight forwarders and warehouse operators. A full circle due diligence process is where each participant in the cross border transaction is exercising due diligence. The full circle due diligence process provides the highest achievable level of confidence to Customs that a particular shipment crossing the border is compliant with the law and therefore does not need inspection. When each participant in the supply chain is exercising a due diligence approach in their business transactions (including checks on the partner participants) Customs, with high confidence, can continue to permit the seamless flow of legitimate international trade. The partnership of the international trade community and Customs significantly increases the supply chain security of international transactions.

Jordan Customs Department Golden List Program

Jordan Customs Department has launched a voluntary, self-compliance program, called Golden List Program. The specific aspects of this program are currently being developed. Supply chain companies that are “exercising due diligence”, have a good compliance history with the Customs department and compliant with Jordan customs law and regulations might qualify to become a golden list member. Golden list companies will enjoy a preferred treatment by Jordan customs department in the form of certain incentives; for example, reduced frequency of inspections by customs, pre-arrival clearance of goods, minimum levels of financial penalties, goods release before completing customs formalities, lesser financial securities (guarantees), reduced documentations and paper work requirements, clearance of goods during off-work hours, expedited clearance times of customs transactions, etc. Companies that do not qualify to become a member of the golden list can work jointly with Jordan customs to make certain improvements to enable them to join.

Methodology

The goal of this project is to introduce to Jordan trade/ supply chain companies (importers, exporters, customs brokers, transporters, freight forwarders and warehouse operators) the benefits and mechanisms of developing and implementing customs due diligence and security standards so that they gain a leading edge advantage in international trade. A due diligent supply chain company that pays attention to the security of its facilities and personnel will be trusted and chosen as a trade partner by other corporations from around the world. Such a company will be marked as low-risk, business-diligent and security-minded partner; consequently, its operations will be facilitated by many government regulatory organizations such as Customs.

There were six tasks performed under this project to accomplish this goal. The first task was to develop a due diligence guide for Jordan supply chain companies to assist them develop and implement their own internal due diligence systems. The guide was intended to educate Jordan supply chain companies on the importance and benefits of customs due diligence, provide them with examples on due diligence practices, and explain the implementation steps to be undertaken by them to develop and implement their own due diligence systems.

The second task was to develop a security guide for Jordan supply chain companies to assist them develop and implement their own security management systems. The guide was intended to educate Jordan supply chain companies on the importance and benefits of security management systems. Also, the guide was intended to provide companies with several security measures/ best practices with respect to general security requirements, personnel security, physical security, operations security, cargo handling security, documents and data security and security measures pertaining to forwarders and transporters, warehouses and terminals operators, stuffers and packers and information processors.

The third task was to develop a security pamphlet for Jordan supply chain companies. The pamphlet was intended to be a promotional tool of the supply chain security management system. The pamphlet highlighted the main features of the security guide described in the previous paragraph.

The forth task was to survey the willingness of Jordan supply chain companies to implement their own due diligence and security standards and to join the voluntary Golden List Program of Jordan customs department. To this extent, a questionnaire survey was prepared and sent to nearly 200 Jordan supply chain companies including manufacturers, exporters, importers, customs brokers, freight forwarders, and in-land and ocean transporters. The questionnaire asked formal and informal questions regarding companies' willingness to develop their own due diligence and security standards. The survey was accompanied by a narrative three-page technical background explaining the "due diligence" and "security" concepts to educate companies about these concepts and assist them answering the questionnaire. The survey was intended to serve three important purposes:

1. To educate at least one-hundred Jordan supply chain companies about the concepts of "due diligence" and "security" and their importance in enhancing Jordan trade capacity; especially in the United States and the European markets.
2. To gauge the willingness of Jordan trade supply chain companies to develop and implement their own due diligence and security standards.
3. To engage Jordan supply chain companies in the process of developing a legal and technical framework for due diligence and security standards to be implemented by Jordan trade community.

One question of the survey asked supply chain companies to list the benefits (incentives) they would like to have from Jordan customs department in reward for becoming members of the Golden List Program. This particular questions was intended to provide guidance to Jordan customs department and Jordan supply chain companies in developing a strategy for reward (incentives) for the companies validated by Jordan Customs as Golden List members.

The fifth task was to review Jordan customs law, Law No. (20) 1998, with the aim of identify the relevant articles, if any, that in one way or another encourage exercising customs due diligence by Jordan trade community. Title VI of the North American Free Trade Agreement Implementation Act, also known as the Customs Modernization or “Mod” Act, was also reviewed in this task. The Mod Act has introduced two important concepts; the “informed compliance” and the “shared responsibility”. The “informed compliance” concept stipulates that Customs must provide the trade community with improved information about their rights and obligations, while, the “shared responsibility” stipulates that the trade community must share the responsibility with Customs for carrying out these obligations. The reviews of Jordan customs law and the Mod Act were intended to recommend a set of amendments and/or new articles to Jordan customs law to introduce the “informed compliance” and “shared responsibility” concepts into this law.

Finally, the sixth task was to hold a focus group meeting with all concerned parties, including Jordan customs department, Ministry of Industry and Trade, Ministry of Agriculture, Ministry of Health, Ministry of Finance, Ministry of Transport, Ministry of Planning, Ports Corporation of Aqaba, Free Zones Corporation, Aqaba Special Economic Zone Authority, Institution for Standards and Metrology, all Qualified Industrial Zone (QIZ) Estates, Investment Promotion Corporation, trade-related non-government associations, chambers of industry and commerce, and nearly eighty Jordan supply chain companies (manufacturers, importers, exporters, transporters, shippers and customs brokers). The meeting was aimed at identifying the steps to be undertaken in the near future by all stakeholders to move forward with implementing the project results.

THE CUSTOMS DUE DILIGENCE GUIDE

One major task of this project was to develop a customs due diligence guide for Jordan trade supply chain companies. The developed guide has included several features as summarized below. (The comprehensive due diligence guide can be found in Appendix 1.)

The International Trade Supply Chain

The international trade community includes two main components-- importers and exporters- in addition to all other supporting components like freight forwarders, in-land and ocean transporters, warehouse operators and customs brokers. All these components are sometimes referred to as “supply chain” because they carry out the duty of supplying goods around the world. Since all these components are involved in international trade, i. e. moving freight between different countries, they must deal or transact with customs departments/ services.

Jordan Trade Supply Chain

Jordan trade supply chain companies include Jordanian importers, exporters/ manufacturers, freight forwarders, in-land and ocean transporters, warehouse operators and customs brokers. Jordan supply chain is considered part of the much bigger international supply chain. Jordan trade transactions with other countries depend heavily on Jordan supply chain companies.

All Jordan supply chain companies must, one way or another, transact with the Jordan Customs Department. The trade activities carried out by Jordan supply chain companies are normally cleared by the Jordan Customs Department. Thus, the Customs Department of Jordan plays a pivotal role in Jordan's trade with other countries; without customs all Jordan supply chain companies will not be able to do their business.

Relationship Between Jordan Customs and Jordan Supply Chain

In all countries, including Jordan, a major difference exists between customs departments and supply chain companies: customs departments/ services are government entities while supply chain companies are mainly private entities. The implication of this major difference is that governments, represented by their customs departments, and private-sector international trade supply chain companies must cooperate and work together to facilitate their business operations. Similar to other countries, Jordan supply chain companies, for sure, would like to do more business (i.e., more trade activity) while Jordan Customs Department would like to facilitate trade flow with minimal effort and resources on its part (as long as Jordan national interests like government revenue, peoples' health and safety, national security, ... etc. are well protected). There are a few important reasons for the need of cooperation between Jordan customs department and Jordan supply chain companies, including:

- The need for both parties to work together to find optimal ways for facilitating trade transactions.
- The need for both parties to work together to develop reward mechanisms for the customs-self-compliant (i.e., due diligent) companies.
- Jordan Customs can not cope with the escalating volumes of international trade and must seek assistance and cooperation from Jordan supply chain companies.
- Supply chain security concerns stipulate maximum cooperation between both parties.

Due Diligent Supply Chain Companies

The current trend internationally is that customs departments, including Jordan Customs, should work closely with supply chain companies to encourage self-compliance with customs laws, and more often other relevant trade laws. Being Jordanian or not, "good" (i.e., due diligent) supply chain companies normally do their best or take an extreme care in performing their business operations; thus self-comply with customs laws and other trade-related laws. In reward, customs departments generally offer these self-compliant companies certain favorable facilities (incentives); for example being relieved from repetitive customs inspections, goods pre-arrival clearance, etc.

Customs Due Diligence Defined

The guide has offered three definitions of the due diligence concept: lingual, legal and technical. In the English language, and according to most dictionaries, "diligent" means "hard-working" or "putting care and effort into what one does", or "done with care and effort". From the legal view point, due diligence (or reasonable care) is the degree of care a reasonably prudent person would use under like circumstances. Technically, customs due diligence for any supply chain company (including Jordan supply chain companies) generally means developing and implementing a system of procedures to carry out business operations in compliance with:

- Customs laws, regulations, instructions and directives.

- International and local trade laws (export and import laws, goods transport laws, prohibited/ restricted materials laws, intellectual property rights laws, trade marks laws, international/ or multi-lateral trade agreements, bilateral trade agreements, quota restrictions laws, health and product safety laws, etc.).
- Relevant industry best practices.

Examples on Customs Due Diligence

A few examples on due diligence practices were included in the guide. The examples were aimed at explaining the due diligence system as applied to Jordan supply chain companies. For illustration purposes, one of the examples reads as follows:

“A Jordan import/ export company that has an up-to-date record of the Jordan customs law and Jordan customs regulations, instructions and directives is exercising due diligence. In addition, if this company is truly due diligent, then it should have a written procedure on how to obtain an official copy of the latest Jordan customs regulations, instructions and directives. A company that does not have this record, and does not even know how to obtain this record, is a non due diligent company. The difference is obvious: how can a company comply with a certain law and relevant regulations, instructions and directives if this company does not even have a copy of such materials?”

Benefits of a Customs Due Diligence System

This part of the guide was aimed at justifying why should a Jordan supply chain company develop and implement a due diligence system. The following benefits were cited and explained in the guide.

- A company is likely to receive a preferential treatment by customs (reduced frequency of inspections, reduced goods post-release compliance audits, pre-arrival clearance of goods, minimum levels of financial penalties, release of goods before completing customs formalities, reduced financial securities/ guarantees, clearance of goods during off-work hours, expedited clearance times of customs transactions, etc.).
- A company is likely to realize customs transactions cost savings.
- The due diligence system is considered a marketing tool for a company.
- As in the near future most international trade activities will be carried out by due diligent supply chains, a due diligence system has become an international mandate.
- A company is likely to realize certain operating cost savings.
- A company is likely to make less errors and mistakes in the course of carrying out its business activities.
- The due diligence system is considered a legal defense mechanism for a company.
- The due diligence system is considered is a management tool for a company.
- The due diligence system is considered a performance-measurement tool for a company.
- Compared to other countries, Jordan supply chain companies are expected to benefit more from implementing due diligence because Jordan has many free trade agreements with other countries, specially those with the United States of America and the European Union Countries.

Coordination of Customs Due Diligence Efforts

Customs departments/ services play a pivotal role in international trade; without customs all trade supply chain components can not carry out their business operations. Thus, in many countries including Jordan, due diligence procedures are normally developed and implemented by supply chain companies in coordination with customs. Customs departments/ services usually work jointly with supply chain companies to identify recommended due diligence standards/ check-lists to be accommodated/ implemented by the supply chain companies. In many cases, this joint effort takes place within the context of certain initiatives. In Jordan, the Post-Audit based on Self-Compliance Program (Golden List Program) is in the verge of launch by Jordan Customs Department as of the date of this writing. The program will audit import and export companies and classify them in certain risk categories according to a pre-set criteria. Certain incentives will be offered to these companies according to their risk categories. More incentives will be offered to the best companies; called Golden List companies.

Due Diligence Implementation Steps

This section of the guide has explained the implementation steps that comprise the logical sequence for developing and implementing a due diligence system for any Jordan supply chain company. The implementation steps are summarized below.

Step 1: Management Commitment

Management commitment to develop and implement due diligence procedures is the most vital step. If a company's management is committed to such a system, it will realize it at the end.

Step 2: Coordinate Company's Work With Customs

Jordan customs department is the pivot around which all Jordan supply chain companies revolve. Jordan Customs Department has already established a risk management unit to assist Jordan supply chain companies develop their own due diligence procedures.

Step 3: Understand Customs Requirements

A company must always remember that "ignorance of the law is no defense". Therefore, a company must conduct a thorough review of Jordan customs law, regulations, instructions and directives. A company must identify the articles in the law, regulations, instruction and directives that apply to its business operations; and appraise to what extent in the past it complied with each relevant article.

Step 4: Understand International Trade Requirements

A company must make sure to have an up-to-date copies of all trade laws, regulations, agreements and special requirements pertaining to its business operations (other than Jordan customs law). A company must then appraise to what extent in the past it complied with each law, regulation, trade agreement, etc.

Step 5: Understand Industry Requirements

One way or another, all industries have their own best practices. International and local industry associations usually develop generic best-practice procedures for their member companies. Thus, a company must make sure that the business practices it follows reflect the relevant industry best practices.

Step 6: Try to be Objective

In performing steps 3, 4 and 5 above, a company needs to be objective. A company must always remember that the aim is to find its own limitations and then to set up certain procedures to overcome them. Thus, a company must be objective and must not be disappointed when finding many limitations. If not sure of being objective enough, a company should invite an outside consultant/ expert for help.

Step 7: Keep Pro-Active

To insure its compliance with Jordan customs law and all other trade laws, agreements, requirements, etc., a company needs to be pro-active. A company must develop specific policies and procedures on how to perform its business activities according to all relevant laws, regulations, agreements, requirements, etc. The level of details for each policy/ procedure should be in light of the likelihood of the harm that could result from non-compliance. The policies and procedures should be distributed to all existing and newly assigned employees, and should be systematically revised as circumstances warrant. A company must train its employees on the developed policies and procedures, and adherence to the developed policies and procedures must be monitored and enforced.

Step 8: Keep Good Records

Good record-keeping is always a strong signal of good management. A good system of keeping all business activity records is a proof of a company's due diligence, and also a measure of how a company is carrying out the responsibilities of its work.

THE SECURITY GUIDE

Another major task of this project was to develop a security guide for Jordan trade supply chain companies. The developed security guide has included several features as summarized below. (The comprehensive security guide can be found in Appendix 2.)

Jordan trade companies with the need for supply chain security include Jordanian importers, exporters/ manufacturers, freight forwarders, in-land and ocean transporters, warehouse operators and customs brokers. Jordan supply chain is considered a small part of the much bigger international supply chain. Jordan trade with other nations depends heavily on Jordan companies with active supply chain security systems.

The security guide is intended to assist Jordan companies implement or improve a supply chain security management system to enhance the overall security of their business operations. The security management system described in the guide complies, generally, with the principals set out in the following sources:

1. The International Shippers and Freight Forwarders Security Code-- Draft Rev. 4 by United Nations Center for Trade Facilitation and Electronic Business (UN/CEFACT).
2. "High Level Guidelines for Co-operative Arrangements Between WCO Members and the Private Sector" to increase supply chain security, as adopted by the WCO in its general assembly in June 2003.
3. United States of America C-TPAT guidelines on supply chain security.
4. International Ship and Port Facility Security Code (ISPS Code) by the International Maritime Organization.
5. BASC (Business Anti-Smuggling Coalition) Standards by the World BASC Organization.

Why Supply Chain Security is Important to Jordan

As concern grows that combating security threats is becoming more and more important to countries, supply chain security has become a vital response mechanism. This part of the guide was aimed at uncovering the vital importance to Jordan trade community of developing and implementing security measures around their supply chains. The following benefits were cited and explained in the guide.

- It is expected in the near future that all international trade activities will be carried out through secure-only supply chains; thus, supply chain security is becoming an international mandate.
- Supply chain security reduces customs clearance times at borders.
- Supply chain security can be used by a company as a marketing tool of its services.
- Supply chain security is very important to Jordan and Jordan's trade partners, especially the United States of America and the European Union which both have free trade agreements with Jordan.
- Enhanced security will prevent the use of the logistics chain to cause harm to life, property or the environment.
- Enhanced security will prevent any illegal intervention in the supply chain which could cause serious delays and hence considerable economic damage.
- Enhanced security in the supply chain will reduce other losses like theft and damage.

General Security Requirements

This part of the security guide has included and explained the main elements of any successful supply chain security system. The main elements discussed in the guide include:

- Company's management commitment to the development and implementation of a security management system.
- The security manual which a company must develop and maintain.
- The records that a company must establish and maintain to provide evidence of conformity of its procedures to the requirements of its security management system.
- The security assessment that must be carried out by a company with the assistance of a qualified third party if deemed necessary. The security assessment includes, at least, the following elements: a) identification and evaluation of facilities, process steps and documents which are important to protect; b) identification of possible threats and vulnerabilities to these facilities, process steps and documents and the likelihood of their occurrence, in order to establish and prioritize security measures and define restricted areas; c) identification of weaknesses, including human factors in the facilities, policies and procedures; d) identification, selection and prioritization of counter measures and procedural changes and their level of effectiveness in reducing vulnerability.

Personnel Security

Company personnel are always under the risk of being pushed or convinced to cooperate with illegal activities beyond their actual functions. Human resources may be the weakest link or

the strongest one in the risk prevention chain. With selection processes a company may avoid that the main interest of a new company employee would not be to work for the company but to work against it. The guide has explained several aspects relevant to personnel security, including:

- Data on employment applicants/ new employees.
- New employees background checks.
- Conducting personal interviews with applicants.
- Induction to new employees on security standards, restricted areas, etc.
- Monitoring and maintaining personnel.
- Preventing internal conspiracies.
- Using incentives to reward safe practices.

Physical Security

Physical security is another important dimension of securing a company's business operations. Physical security focuses on the company's buildings, premises, storage areas, parking, gates, etc. The security guide has included several recommendations for improving the physical security of a supply chain company. The recommendations involved several aspects pertaining to physical security, including:

- Cargo storage areas.
- Perimeter fencing.
- Security of gates and doors.
- Appropriate lighting.
- Locks and key control.
- Guard booth.
- Parking.
- Communications.
- Access control.

Operations Security

Operations security is yet another dimension of securing a company's business operations. Operations security focuses on a company's security officer in charge, security of the sensitive jobs and employees identification and training. The security guide has included several recommendations for improving the operations security of a supply chain company. The recommendations involved several aspects pertaining to operations security, including:

- Appointing a security officer in-charge.
- Treatment of sensitive jobs.
- Employees identification systems.
- Security knowledge and training.

Cargo Handling Security

Security measures should be implemented in the plant during the course of cargo reception and delivery, including handling empty and full containers. The security guide has included several recommendations for improving the security of cargo handling processes. The recommendations involved several aspects pertaining to cargo handling security, including:

- Handling empty containers.
- Handling full containers.
- Reception and delivery of general cargo.
- Inspection of non company vehicles.

Documents and Data Security

Efficacy of a company's security standards for facilities and operations depend on the control of documents and data. Documents with which a company receives, packs, unpacks, transports, delivers or transfers the responsibility from itself to another, or from one area in the company to another, are especially important. The security guide has included several recommendations for improving the security of documents and data. The recommendations involved several aspects pertaining to documents and data security, including:

- Documents access and responsibility.
- Handling of cargo documents.
- Signatures and stamps policy.
- Handling of last-minute shipment documents.
- Computerized documentation.

Specific to Forwarders and Transporters

This part of the security guide has included several security requirements that are applicable to all companies engaged in the movement of containers by road, rail or inland waterway. The requirements involved several aspects pertaining to the movement of containers, including:

- Container marking, weight and documentation.
- Container seals and documentation of seals.
- Container movement schedule, routes and stops.
- Destination alert of container pertinent information.
- Inspection to verify container tampering.
- Security of control cabins of means of conveyance.
- Use of cabins intrusion alarms.
- Dealing with prolonged stops.

Specific to Warehouses, Storage Areas and Terminals

This part of the security guide has included several security requirements that are applicable to all companies that, as part of their operation are engaged in the storage of cargo and/ or sealed containers in warehouses, on storage areas and terminals, independent of nature and size. The requirements involved several aspects pertaining to cargo storage, including:

- Cargo marking, weighting, counting and checking documents.
- Container seals upon entry into storage warehouse.
- Cargo compliance with its documentation and manifests.
- Recording of seals.
- Additional security for restricted areas.

- Prevention of unauthorized access to facilities.
- Positive identification of employees, suppliers, visitors, etc.
- Use of security codes and cards.

Specific to Stuffers and Packers

This part of the security guide has included several security requirements that are applicable to all companies that, as part of their operation are engaged in the stuffing, packing, loading, re-loading or consolidating and consecutive sealing of containers, independent of their size and type of processes of this operation. The requirements involved several security aspects pertaining to these operations, including:

- Security procedures during loading/ unloading of the container.
- Inspection of empty or partially loaded containers.
- Inspection and verification of seals.
- Marking, weighing, counting and documenting of cargo entering the container.
- Prevention of unauthorized access to facilities.
- Positive identification and recording of all employees, suppliers, visitors, etc.
- Use of security codes and cards.

Specific to Information Processors

This part of the security guide has included several security requirements that are applicable to all companies (including brokers, agents etc.) that as part of their operation are engaged in the receiving, processing or forwarding of information to the Jordan customs department or other parties in the supply chain. The requirements involved several security aspects pertaining to these companies, including:

- Completeness, legibility and accuracy of documents.
- Vulnerability of information systems.
- Access authorization system.
- Security of critical information.
- Dealing with computer system break downs and use of back-up routines.
- Dealing with overages and shortages.
- Prevention of unauthorized access to facilities.
- Positive identification and recording of all employees, suppliers, visitors, etc.
- Use of security codes and cards.

THE SECURITY PAMPHLET

The third task of this project was to develop a security pamphlet for Jordan supply chain companies. The pamphlet was intended to be a promotional tool of the supply chain security management system. The pamphlet briefly highlighted the main features of the security guide described in the previous section. The details of the pamphlet will not be described here as they represent the same contents of the security guide. (The comprehensive security pamphlet can be found in Appendix 3.)

WILLINGNESS OF JORDAN SUPPLY CHAIN COMPANIES TO IMPLEMENT DUE DILIGENCE AND SECURITY STANDARDS AND JOIN THE GOLDEN LIST PROGRAM

The forth task of this project was to survey the willingness of Jordan supply chain companies to implement their own due diligence and security standards and to join the voluntary Golden List Program of Jordan customs department. To this extent, a questionnaire survey was prepared and sent to nearly 200 Jordan supply chain companies including manufacturers, exporters, importers, customs brokers, freight forwarders, and inland and ocean transporters. The questionnaire asked formal and informal questions regarding companies' willingness to develop their own due diligence and security standards. The survey was accompanied by a narrative three-page technical background explaining the "due diligence" and "security" concepts to educate companies about these concepts and assist them answering the questionnaire. The survey was intended to serve three important purposes:

1. To educate at least one-hundred Jordan supply chain companies about the concepts of "due diligence" and "security" and their importance in enhancing Jordan trade capacity; especially in the United States and the European markets.
2. To gauge the willingness of Jordan trade supply chain companies to develop and implement their own due diligence and security standards.
3. To engage Jordan supply chain companies in the process of developing a legal and technical framework for due diligence and security standards to be implemented by Jordan trade community.

One question of the survey asked supply chain companies to list the benefits (incentives) they would like to have from Jordan customs department in reward for becoming members of the Golden List Program. This particular questions was intended to provide guidance to Jordan customs department and Jordan supply chain companies in developing a strategy for reward (incentives) for the companies validated by Jordan Customs as Golden List members.

Results of Jordan Supply Chain Companies Survey

Eight questions were prepared by the author for the survey, in close cooperation with the AMIR Program. A cover letter and a 3-page background information sheets were also prepared and sent with the survey, and are included in Appendix 4.

Survey packages were delivered by hand to the general managers of 200 supply chain companies. It was assumed that the general managers would take on the responsibility to direct the surveys, if necessary, to other individuals within their firms who might be more suited to complete the survey.

The desired rate of response to the survey was set at 50 percent, and follow-up telephone calls were made to all companies during the following two weeks after the surveys were sent to ensure the highest possible rate of cooperation.

One-hundred and eleven surveys were completed and returned to the author. Therefore, the overall response rate to the survey was 55.5 percent, or 111 out of 200. The responses of the 111 companies are summarized below for each one of the eight questions included in the survey.

Question 1

"Please check all items that apply to your company's operations:"

- | | | |
|-------------------|----------------|--|
| a) Importer | b) Exporter | c) Freight Forwarder |
| d) Customs Broker | d) Transporter | e) Qualified Industrial Zone Company (QIZ) |

Of the surveyed companies, 59 were importers, 55 were exporters, 12 were freight forwarders, 23 were customs brokers, 10 were transporters and 25 were qualified industrial zone (QIZ) companies. It should be noted that Jordan exports depend heavily on imported ingredients, thus most exporters are considered importers as well. Also, most freight forwarders provide customs brokerage services as well. All qualified industrial zone (QIZ) companies import from Israel and other countries and export to the United States market. Transport companies are the only ones that provide transportation services exclusively.

Question 2

“Would your company be interested in becoming a Golden List member with Jordan Customs Department?”

Yes No (if “No” what is the reason?)

Of the 111 companies surveyed, 110 (99%) answered “Yes”. This result clearly indicates that all Jordan supply chain companies are interested to join the Golden List Program of Jordan customs department.

Question 3

“If your answer to the previous question is “Yes”, do you think your company is ready to work with Jordan Customs Department to find out if your company qualifies to become a member of the Golden List?”

Yes No (if “No” what is the reason?)

This question was aimed at gauging the level of readiness of Jordan supply chain companies to open up for a voluntary audit to be conducted by Jordan customs department to find out if a company qualifies to become a member of the Golden List Program. Of the 111 companies surveyed, 108 (97%) answered “Yes”. This result clearly indicates that almost all Jordan supply chain companies are not only interested, but also ready to get started, with all necessary steps to become members in the Golden List Program.

Question 4

“Golden List companies will be offered certain benefits by Jordan Customs Department (for example, reduced frequency of inspections, reduced financial guarantees, expedited clearance times, etc.). What benefits you would like Jordan Customs Department to offer your company?”

a)

b)

c)

This particular questions was intended to provide guidance to Jordan customs department and Jordan supply chain companies in developing a strategy for reward (incentives) for the companies validated by Jordan Customs as Golden List members. The surveyed companies cited several benefits they would like Jordan Customs Department offer them. The most frequently cited benefits were:

- Reduce financial securities/ guarantees requirements for goods release under bonds.
- Expedite customs processing formalities.
- Expand Green Lane use for Golden List Companies.
- Reduce inspections frequency for Golden List Companies.
- Increase the number of customs officers available at borders/ entry points.
- Cut customs processing routines for Golden List Companies.

- House other agency employees (like Ministry of Health, Ministry of Agriculture, Institution for Standards and Metrology, etc.) within Jordan Customs Department premises/ headquarters.
- Do not send goods to other agencies to reduce processing time and cost borne by Golden List Companies. (Companies requesting a system to be in place for this issue to enhance predicting processing times.)
- Assign Customs Department contact officers to Golden List Companies.
- The Institution for Standards & Metrology should be housed within Jordan Customs Department premises/ headquarters.
- Cut goods' temporary admission procedures/ formalities.
- Implement electronic communications with Jordan Customs Department (should be available to Golden List Companies).
- Jordan Customs Department should consult with customs brokers when making important decisions.
- Inspect goods at one border crossing only when good need to cross two border points.
- Jordan Customs Department should get involved in expanding the implementation of Jordan-United States Free Trade Agreements.
- Fair and equal treatment to all companies should be promoted.
- Goods inspections should take into consideration the nature of goods (large medical equipments, for example, need not be unloaded for inspection).
- There should be a uniform system in place for appraising customs value for imported goods.

Question 5

“If having a due diligence system implemented at your company will enable it to become a Golden List member, is your company willing to implement such a system?”

Yes

No

Of the 111 companies surveyed, 110 (99%) answered “Yes”. This result clearly indicates that Jordan supply chain companies are willing to develop and implement their own due diligence standards if doing so will enable them to join the Golden List Program.

Question 6

“If having a due diligence system implemented at your company will improve your business operations in general (regardless of the Golden List), is your company willing to implement such a system?”

Yes

No (if “No” what is the reason?)

Of the 111 companies surveyed, 110 (99%) answered “Yes”. This result clearly indicates that Jordan supply chain companies are willing to develop and implement their own due diligence standards even without the presence of the Golden List Program. This means that Jordan supply chain companies, after reading the 3-page background information attached to the survey, did realize the importance of having due diligence standards in place.

Question 7

“As a supply chain company, do you perceive a need to improve your company’s security procedures in general?”

Yes

No (if “No” what is the reason?)

Of the 111 companies surveyed, 90 (81%) companies answered “Yes”. Many of the rest which answered “No”, 19%, cited that they already have adequate security measures in place.

This result is quite positive since it indicates that the majority of Jordan supply chain companies realize the need to enhance their security measures. This result also indicates that Jordan supply chain companies need more assistance to enhance the security side of their operations.

Question 8

“After examining the benefits to Jordan of enhancing supply chain security (as listed on the attached sheets), do you think your company should enhance its own security procedures?”

Yes No (if “No” what is the reason?)

Of the 111 companies surveyed, 92 (83%) companies answered “Yes”. Many of the rest which answered “No”, 17%, cited that they already have adequate security measures in place. This result clearly indicates that the companies which do not have adequate security measures do realize that they should do so. The answers to this question and the previous one clearly indicate that the majority (nearly 80%) of Jordan supply chain companies admit the lack of adequate security measures around their operations, and they realize the need to do something about that.

TREATMENT OF THE DUE DILIGENCE CONCEPT UNDER JORDAN CUSTOMS LAW

In many countries, customs services/ departments have concluded that, with the escalating volumes of international trade, they will be neither able to inspect every cargo shipment nor properly enforce the relevant customs laws and regulations. Thus, they shifted their effort towards encouraging the trade community to self-comply with the relevant customs laws and regulations. To accomplish that, customs services/ departments in these countries, in association with the affected trade supply chain companies, have developed and implemented voluntary programs to encourage these companies to self-comply with customs laws and regulations. Though the details of these voluntary programs differ from one particular program to another, they all share the same concept: in cooperation with the relevant customs service/ department, a company implements internal procedures/ measures to assure its self-compliance with all relevant customs requirements. After having such procedures/ measures in place (legally referred to as “exercising due diligence”), a company could be marked as a “self-compliant company” by the relevant customs service/ department. Of course, a self-compliant company (due diligent company) is expected to pose less risk in terms of evading customs laws and regulations. Consequently, cargo shipments belonging to such a company could naturally be processed faster by the relevant customs service/ department. Depending on its scope, a self-compliance program sometimes require a legal base for its implementation by the responsible customs service/ department. The underlying customs legislation might require certain amendments so that the self-compliance program could be implemented.

Jordan Customs Department has launched a voluntary self-compliance program, called Golden List Program. The specific aspects of this program are currently being developed. According to this program, supply chain companies that are “exercising due diligence”, have a good compliance history with the Jordan Customs Department and compliant with Jordan customs law and regulations might qualify to become a golden list member. Golden list companies will enjoy a preferred treatment by Jordan Customs in the form of certain incentives; for example, reduced frequency of inspections by Customs, pre-arrival clearance of goods, minimum levels of financial penalties, goods release before completing customs formalities, lesser financial securities (guarantees), reduced documentations and paper work requirements, clearance of goods during off-work hours, expedited clearance times of

customs transactions, etc. Companies that do not qualify to become a member of the golden list can work jointly with Jordan Customs to make certain improvements to enable them to join.

Within the trade community, due diligence for a supply chain company means developing and implementing a system of procedures to carry out business operations in the “best way possible”. The “best way possible” means complying with Jordan customs law and regulations, complying with international and local trade laws (e.g. export and import laws) and complying with the relevant industry best practices. The processes within the company to insure future compliance must also be documented. Companies that have due diligence procedures in place are better equipped to become a Golden List member.

The fifth task of this project was aimed at reviewing the Jordan customs law, Law No. (20) 1998, with respect to the concept of due diligence as a mechanism to enable Jordan supply chain companies join the Golden List Program. Specifically, the review was focused on two main issues:

1. To identify the relevant articles of the Jordan customs law, if any, that in one way or another encourage exercising due diligence (or reasonable care) by the trade supply chain companies of Jordan.
2. To recommend a set of amendments and/ or new articles to Jordan customs law to introduce the concept of due diligence into this law when deemed appropriate. The recommended amendments and/ or new articles were based on a comprehensive review of Title VI of the North American Free Trade Agreement Implementation Act of 1993, also known as the Customs Modernization or “Mod” Act. The Mod Act has introduced two important concepts; the “informed compliance” and the “shared responsibility”. The informed compliance concept stipulates that Customs must provide the trade community with improved information about their rights and obligations, while, the shared responsibility stipulates that the trade community must share the responsibility with Customs for carrying out these obligations.

Review of Jordan Customs Law

The Customs Law, Law No. 20 for the Year 1998 was reviewed to identify the relevant articles of the Jordan customs law, if any, that in one way or another encourage exercising due diligence (or reasonable care) by Jordan trade supply chain companies. All relevant law articles were identified and listed in Appendix 5. In the Appendix, titles and chapters numbers and descriptions under which each relevant article appeared in the law were reserved before the article itself. Below is a summary of the results of this review.

- The due diligence or reasonable care concept has no mention what so ever in the Jordan customs law.
- The Jordan customs law has no mention of any voluntary programs to encourage the Jordan trade community to self-comply with the Jordan customs law. At the same time, the law does not contain any legal barriers that could prevent Jordan Customs Department from developing and implementing any voluntary self-compliance program(s) to enhance Jordan trade community’s compliance with this law.

- Article 31 (C): For the purpose of determining the customs value, part (C) of article 31 stipulates that the customs declaration must be accompanied by an original list(s) (invoices) attested by the chamber of commerce of the city where the commodity has originated or by any agency acceptable for the Department, in confirming the authenticity of prices and origin. Part (C) also stipulates that these documents shall also be attested by the Jordanian Consular Missions. The stipulations of part (C) could be eased up (specially the attestation requirement by the Jordanian Consular Missions) as a benefit to be offered to due diligent or Golden list companies.
- Article 31 (D): Part (D) of article 31 gives the authority to the director of Customs to allow the completion of clearing formalities for the goods, without the presentation of the attested lists (invoices), and the required documents, in return for cash guarantee not exceeding 2% or a bank security not exceeding 4% of the goods value for each document. Thus, part (D) identified the upper limit of the demanded security while the lower limit was left open. The security stipulated by part (D) could be eased up, actually to the level of zero percentage, as a benefit to due diligent or Golden List companies.
- Article 31 (G): Part (G) of article 31 gives the Customs Department the right to demand the documents, contracts, correspondences and others relating to the transaction, including letters of credit. Thus, part (G) actually allows the Customs Department to perform an audit of any customs transaction for the purpose of identifying the customs value. The Customs Department could choose to make less frequent audits (as a benefit) to transactions belonging to due diligent or Golden List companies.
- Article 39 (C): Part (C) of article 39 stipulates that the official customs formalities shall not be allowed for any goods whose importation or exportation depends on the issue of a license, permit, certificate or any other document before obtaining the required document. Thus, the Customs Department can not relieve a due diligent or a Golden List company (or any other company) from any import/ export license or permit issued by other Jordan Government Agency like the Ministry of Industry and Trade, the Ministry of Agriculture, the Ministry of Health, etc.
- Article 61 (1), (2): Article 61 stipulates that upon clearing any goods, even if exempt from duties and taxes, a customs declaration shall be presented to the customs center. Part (1) of article 61 stipulates that such a declaration shall be organized in writing or by using information or data processing methods whenever such methods are required and in accordance with directives issued by the director. Part (2) of the same article gives the authority to the director to specify the forms of declarations and the media for their submission, in addition to the number of copies, their prices, the information they must contain, the documents which shall be attached to the declarations as well as the information contained in such documents. This article has important implications for the mechanism of submitting a declaration and the documents to be attached to the declaration. The director of Customs can, via issuing the appropriate instructions, allow the use of an automated submission system for declarations and documents. Due diligent or Golden List companies could benefit greatly from the implementation of a full-service automated system if allowed to use such a system as a benefit by Jordan Customs. Also, article 61 offers the director of Customs adequate flexibility in terms of the documents required to accompany a declaration.

- Article 66 (C) and Article 69: Part (C) of article 66 gives the right to the Customs Department to request inspection of the goods in the presence or absence of the declarer after duly advising him of the date for such an inspection. Article 69, following the registration of the customs declaration, gives the right to the Customs Department to inspect goods wholly or partly according to the instructions issued by the director. These articles clearly indicate that the Customs Department has the right to inspect any shipment, and the director of customs is authorized to issue the appropriate instructions to specify the frequency of such inspections. Thus, the director of Customs has the required authority to authorize less frequent inspections (as a benefit) to shipments belonging to due diligent or Golden List companies.
- Article 80: Part (A) of article 80 gives the minister of Finance the authority to appoint a special committee consisting of three senior officials from the Customs Department, to look into disputes concerning the value, origin, characteristics or tariff classification of goods. Part (C) of this article authorizes the director of Customs to issue his decision concerning a dispute upon the recommendation of the committee. Part (E) of the same article authorizes the director of Customs to allow the release of the disputed goods prior to the settlement of the dispute according to conditions, procedures and guarantees specified by the director. This article has two implications for any self-compliance program (like the Golden List Program) to be implemented by the Jordan Customs Department. The first is that when reviewing a dispute, the 3-officials special committee can, and logically should, take into consideration certain anomalies relevant to the disputed company like being a due diligent or a Golden List member. The second is that the director of Customs can also take into consideration the same anomalies when stipulating the conditions, procedures and guarantees for allowing the release of the disputed goods.
- Article 83: This article allows persons to withdraw their goods before the final assessment of due duties and taxes against a bank or a cash guarantee and under the conditions and rules specified by the director. This article offers the director of Customs maximum flexibility in allowing expedited release of cargo shipments. Through the appropriate instructions, the director of Customs can set up the conditions and rules for the immediate release of goods, including the amounts of bank or cash guarantees, taking into consideration the fact that some companies are due diligent or Golden List members and others are not.
- Article 84: Part (A) of article 84 authorizes Customs, with the director's approval and after the release of the goods, to examine the customs and commercial documents and data, relating to the import or export operations in respect of the goods concerned. Also, inspection and examination of goods may be carried out at the premises of the declarer or any other person directly or indirectly involved in the said operations in a business capacity within a period not exceeding three months from the date of releasing those goods. If the post-clearance examination indicates that the provisions governing the customs procedure provided for in the customs law, have been applied on the basis of incorrect or incomplete information, then part (B) of article 84 authorizes the Customs Department to take the necessary measures to correct the situation, taking into account the new information available to them. Thus, article 84 authorizes the Customs Department to conduct a limited post-release audit of customs transactions. One limitation is that the audit can not look into other related

documents; other than the customs and commercial documents pertaining to the goods. A second limitation is that the audit can not be made later than three months from the release of the relevant goods. A third limitation is that the audit can not take place at the audited company's premises.

- Article 88: According to this article, it is permitted to admit goods into Jordan and transport them from one place to another within or across Jordan, with suspension of the payment of customs duties and other taxes and fees relating to these goods. Under such conditions, guarantees shall be submitted to ensure payment of fees and duties in cash or in bank securities or guaranteed undertakings in accordance with the provisions issued by the director. Thus, through the appropriate instructions, the director of Customs can set up the conditions and rules for the immediate release of goods, including the types and amounts of financial guarantees, taking into consideration the fact that some companies are due diligent or Golden List members and others are not.
- Article 133: Part (A) of article 133 permits foreign goods to enter Jordan, under the status of pending customs duties and other fees and taxes principally for processing, completion of manufacture or repair whether the beneficiary is a manufacturer or an exporter, for export purposes within a period not exceeding three years. Part (D) of the same article explains that goods benefiting from this status as well as the guarantees required to benefit from the provisions of this article and any other conditions necessary for this status shall be determined via instructions issued by the director. Thus, through the appropriate instructions, the director of Customs can set up the conditions and rules to enable companies to benefit from this article, including the types and amounts of financial guarantees, taking into consideration the fact that some companies are due diligent or Golden List members and others are not.
- Article 148: This articles states that, for the purpose of simplifying procedures and despite that, stated in Article 69 of the customs law, the minister may waive the procedures regarding the inspection of goods and be satisfied with the presented documents for the direct clearance of those goods under provisions and terms issued and published in the Official Gazette. It is clear from this article that the clearance of goods based on the presented documents only (without performing any inspections) is the authority of the minister. When articles 148 and 69 are taken together, it seems that the Customs Department should make an inspection (even though such an inspection could be a routine or a partial inspection) before releasing the goods; while, eliminating inspections altogether is the authority of the Minister only.
- Article 167 (B) and article 170: Part (B) of article 167 stipulates that, before the customs clearance agent license is granted, the applicant must submit a bank guarantee specified by the director, provided that it will not be less than 5,000 Jordanian Dinars. Article 170 stipulates that the clearance agent must keep, under penalty of suspension, a record in which he shall record a summary of the customs formalities carried out by him for others, in the past three years, within the conditions determined by the director. Further, article 170 indicates that the Customs Department has the full authority to inspect these records at any time without objection from the clearance agent. Taken together, articles 167 and 170 offer the director of Customs full authority to issue all necessary instructions to control and enhance the operations of customs clearing agents; including the amounts of financial

securities required from them, the procedures for record-keeping stipulated upon them and the frequency and procedure for auditing them. Thus, the director of Customs has full authority to offer due diligent or Golden List clearance agents certain benefits like lesser financial guarantees and/ or less frequent audits.

- Article 183: When charged with investigating and scrutinizing, article 183 authorizes the Customs Department's officials to examine the bills of lading, lists, commercial correspondences, contracts, records and all other documents and deeds, of whatever kind, that may be related directly or indirectly to customs operations, and to seize them if necessary, from any party whatever, relating to the customs operations. These parties must keep these records, bills and documents for a period of three years. Superficially, article 183 seems to offer the Customs Department the authority to conduct regulatory audits. This is true only when the Customs Department is investigating a smuggling case; as this article is listed under Title 12, Chapter two: Investigation of Smuggling. Thus, it is evident that Jordan Customs Department can not conduct a full-scale involuntary regulatory audit unless justified by a smuggling case. Article 183 stipulates that the record-keeping period for the various customs and commercial documents is three years.
- Articles 198, 199 and 200: The three articles contain descriptions of the various types of customs violations and the ranges of fines imposed on each type. It was noted in these articles that the ranges of the imposed fines were quite wide, with the lower limits often left open. The lower limits of the various fines ranges appear extremely forgiving. Thus, Jordan Customs Department can set up certain rules to apply the appropriate fine amount taking into consideration the fact that some companies are due diligent or Golden List members and others are not.

Recommended Amendments/ New Articles

The following is a recommend set of amendments and/ or new articles to Jordan customs law to introduce the concept of due diligence into this law. The recommended amendments and/ or new articles were based on a comprehensive review of Title VI of the North American Free Trade Agreement Implementation Act of 1993, also known as the Customs Modernization or "Mod" Act.

Reasonable Care

The following new article is to replace article 61 to introduce into Jordan law the concept of due diligence or reasonable care.

(a) Requirement and time

- (1) One of the parties qualifying as "importer of record" under paragraph (2)(B), either in person or by an agent authorized by the party in writing, shall, using reasonable care:
 - (A) make entry therefore by filing with the Customs Department such documentation or, pursuant to an electronic data interchange system (if used), such information as is necessary to enable the Customs Department to determine whether the merchandise may be released from customs custody, and

- (B) complete the entry by filing with the Customs Department the declared value, classification and rate of duty applicable to the merchandise, and such other documentation or, pursuant to an electronic data interchange system (if used), such other information as is necessary to enable the Customs Department to: (i) properly assess duties on the merchandise, (ii) collect accurate statistics with respect to the merchandise, and (iii) determine whether any other applicable requirement of the law is met.
- (2)
- (A) The documentation or information required under paragraph (1) with respect to any imported merchandise shall be filed or transmitted in such manner and within such time periods as the director shall by regulation prescribe.
- (B) When an entry of merchandise is made under this article, the required documentation or information shall be filed or electronically transmitted (if allowed) either by the owner or purchaser of the merchandise or, when appropriately designated by the owner, purchaser, or consignee of the merchandise, a person holding a valid license under article 166 of this law. When a consignee declares on entry that he is the owner or purchaser of merchandise the Customs Department may, without liability, accept the declaration. For the purposes of this chapter, the importer of record must be one of the parties who is eligible to file the documentation or information required by this law.
- (C) The director, in prescribing regulations to carry out this article, shall establish procedures which insure the accuracy and timeliness of import statistics, particularly statistics relevant to the classification and valuation of imports. The director shall also provide, to the maximum extent practicable, for the protection of the revenue, the enforcement of laws governing the importation and exportation of merchandise, the facilitation of the commerce of the Kingdom of Jordan, and the equal treatment of all importers of record of imported merchandise.
- (b) Signing and contents
- (1) Entries shall be signed by the importer of record, or his agent, unless filed pursuant to an electronic data interchange system (if used). If electronically filed, each transmission of data shall be certified by an importer of record or his agent, one of whom shall be resident in the Kingdom of Jordan for purposes of receiving service of process, as being true and correct to the best of his knowledge and belief, and such transmission shall be binding in the same manner and to the same extent as a signed document. The entry shall set forth such facts in regard to the importation as the director may require and shall be accompanied by such invoices, bills of lading, certificates, and documents, or their electronically submitted equivalents (if acceptable), as are required by regulation.
- (2) The director, in prescribing regulations governing the content of entry documentation, shall require that entry documentation contain such information as may be necessary to determine whether the imported merchandise bears an infringing trademark in violation of this law or any other applicable law, including a trademark appearing on the goods or packaging.
- (c) Production of invoice

The director may provide by regulation for the production of an invoice, parts thereof, or the electronic equivalents thereof (if acceptable), in such manner and form, and under such terms and conditions, as the director considers necessary.

(d) Statistical enumeration

The director in cooperation with all relevant government branches shall establish from time to time for statistical purposes an enumeration of articles in such detail as in their judgment may be necessary, comprehending all merchandise imported into the Kingdom of Jordan and exported from the Kingdom of Jordan, and shall seek, in conjunction with statistical programs for domestic production and programs for achieving international harmonization of trade statistics, to establish the comparability thereof with such enumeration of articles. All import entries and export declarations shall include or have attached thereto an accurate statement specifying, in terms of such detailed enumeration, the kinds and quantities of all merchandise imported and exported and the value of the total quantity of each kind of article.

(e) Statement of cost of production

Under such regulations as the director may prescribe, the Customs Department may require a verified statement from the manufacturer or producer showing the cost of producing the imported merchandise, if the Customs Department considers such verification necessary for the appraisal of such merchandise.

(f) Admissibility of data electronically transmitted

Any entry or other information transmitted by means of an authorized electronic data interchange system shall be admissible in any and all administrative and judicial proceedings as evidence of such entry or information.

(g) Declaration

Every importer of record making an entry under the provisions of this article shall make and file or transmit electronically (if allowed) therewith, in a form and manner to be prescribed by the director, a declaration under oath, stating:

- (1) Whether the merchandise is imported in pursuance of a purchase or an agreement to purchase, or whether it is imported otherwise than in pursuance of a purchase or agreement to purchase;
- (2) That the prices set forth in the invoice are true, in the case of merchandise purchased or agreed to be purchased; or in the case of merchandise secured otherwise than by purchase or agreement to purchase, that the statements in such invoice as to value or price are true to the best of his knowledge and belief;
- (3) That all other statements in the invoice or other documents filed with the entry, or in the entry itself, are true and correct; and
- (4) That he will produce at once to the appropriate customs officer any invoice, paper, letter, document, or information received showing that any such prices or statements are not true or correct.

Prior Disclosure

The following new article is to be inserted directly after article 200 to introduce into Jordan law the concept of prior disclosure.

(a) Procedures

If the Customs Department has reasonable cause to believe that there has been a violation under articles 198, 199 or 200 and determines that further proceedings are warranted, it shall issue to the person concerned a written notice of its intention to issue a claim for a monetary penalty. Such notice shall:

- (A) describe the merchandise;
- (B) set forth the details of the entry or introduction, the attempted entry or introduction, or the aiding or procuring of the entry or introduction;
- (C) specify all laws and regulations allegedly violated;
- (D) disclose all the material facts which establish the alleged violation;
- (E) state the estimated loss of lawful duties, taxes, and fees, if any, and, taking into account all circumstances, the amount of the proposed monetary penalty; and
- (F) inform such person that he shall have a reasonable opportunity to make representations, both oral and written, as to why a claim for a monetary penalty should not be issued in the amount stated.

(b) Prior Disclosure

If the person concerned discloses the circumstances of a violation under articles 198, 199 or 200 before, or without knowledge of, the commencement of a formal investigation of such violation, with respect to such violation, any monetary penalty to be assessed under these articles shall be the minimum.

The person asserting lack of knowledge of the commencement of a formal investigation has the burden of proof in establishing such lack of knowledge. For purposes of this article, a formal investigation of a violation is considered to be commenced with regard to the disclosing party and the disclosed information on the date recorded in writing by the Customs Department as the date on which facts and circumstances were discovered or information was received which caused the Customs Department to believe that a possibility of a violation of articles 198, 199 or 200 existed.

Regulatory Audit

The following new article is to replace article 84 to give the Customs Department the authority to conduct regulatory audits.

(a) Examination of Books and Witnesses:

In any investigation or inquiry conducted for the purpose of ascertaining the correctness of any entry, for determining the liability of any person for duty, fees and taxes due or duties, fees and taxes which may be due the Kingdom of Jordan, for determining liability for fines and penalties, or for insuring compliance with the laws of the Kingdom of Jordan administered by the Customs Department, the director, or an authorized customs officer appointed by the director, may

- (1) examine, or cause to be examined, upon reasonable notice, any record (which for purposes of this article, includes, but is not limited to, any statement, declaration, document, or electronically generated or machine readable data) described in the notice with reasonable specificity, which may be relevant to such investigation or inquiry, except that -

- (A) if such record is required by law or regulation for the entry of the merchandise (whether or not the Customs Department required its presentation at the time of entry) it shall be provided to the Customs Department within a reasonable time after demand for its production is made, taking into consideration the number, type, and age of the item demanded; and
- (B) if a person of whom demand is made under subparagraph (A) fails to comply with the demand, the person may be subject to penalty under article 199 of this law;
- (2) summon, upon reasonable notice -
 - (A) the person who: (i) imported, or knowingly caused to be imported, merchandise into the customs territory of the Kingdom of Jordan, (ii) exported merchandise, or knowingly caused merchandise to be exported, (iii) transported or stored merchandise that was or is carried or held under customs bond, or knowingly caused such transportation or storage, or (iv) filed a declaration, entry, or drawback claim with the Customs Department;
 - (B) any officer, employee, or agent of any person described in subparagraph (A);
 - (C) any person having possession, custody or care of records relating to the importation or other activity described in subparagraph (A); or
 - (D) any other person he may deem proper;

to appear before the appropriate customs officer at the time and place within the customs territory of the Kingdom of Jordan specified in the summons, to produce records and to give such testimony, under oath, as may be relevant to such investigation or inquiry; and

(3) take, or cause to be taken, such testimony of the person concerned, under oath, as may be relevant to such investigation or inquiry.

(b) Regulatory Audit Procedures:

(1) In conducting a regulatory audit under this article, the Customs Department auditor shall provide the person being audited, in advance of the audit, with a reasonable estimate of the time to be required for the audit. If in the course of an audit it becomes apparent that additional time will be required, the Customs Department auditor shall immediately provide a further estimate of such additional time.

(2) Before commencing an audit, the Customs Department auditor shall inform the party to be audited of his right to an entry conference at which time the purpose will be explained and an estimated termination date set. Upon completion of on-site audit activities, the Customs Department auditor shall schedule a closing conference to explain the preliminary results of the audit.

(3) Except as provided in paragraph (5), if the estimated or actual termination date for an audit passes without the Customs Department auditor providing a closing conference to explain the results of the audit, the person being audited may petition in writing for such a conference to the officer designated, who, upon receipt of such a request, shall provide for such a conference to be held within 15 days after the date of receipt.

(4) Except as provided in paragraph (5), the Customs Department auditor shall complete the formal written audit report within 90 days following the closing conference unless the officer designated pursuant to regulations provides written notice to the person being audited of the reason for any delay and the anticipated completion date. A copy of the formal written audit

report shall be sent to the person audited no later than 30 days following completion of the report.

(5) Paragraphs (3) and (4) shall not apply after the Customs Department commences a formal investigation with respect to the issue involved.

(6) If during the course of any audit concluded under this article, the Customs Department identifies overpayments of duties or fees or over-declarations of quantities or values that are within the time period and scope of the audit that the Customs Department has defined, then in calculating the loss of revenue or monetary penalties, the Customs Department shall treat the overpayments or over-declarations on finally liquidated entries as an offset to any underpayments or under declarations also identified on finally liquidated entries, if such overpayments or over-declarations were not made by the person being audited for the purpose of violating any provision of law.

Record keeping

The following new article is to be inserted directly after article 68 to enhance Jordan customs law in terms of record-keeping requirements. If this new article is adopted, then minor changes to articles 170, 183 and 199 would be required.

Any –

(1) owner, importer, consignee, importer of record, entry filer, or other party who: (A) imports merchandise into the customs territory of the Kingdom of Jordan, files a drawback claim, or transports or stores merchandise carried or held under bond, or (B) knowingly causes the importation or transportation or storage of merchandise carried or held under bond into or from the customs territory of the Kingdom of Jordan;

(2) agent of any party described in paragraph (1); or

(3) person whose activities require the filing of a declaration or entry, or both;

shall make, keep, and render for examination and inspection records (which for purposes of this article include, but are not limited to, statements, declarations, documents and electronically generated or machine readable data) which: (A) pertain to any such activity, or to the information contained in the records required by this law in connection with any such activity; and (B) are normally kept in the ordinary course of business. All records shall be kept for a period of three years from the date of filing the declaration.

STAKEHOLDERS MEETING

The sixth and last task of this project was to hold a focus-group meeting of all parties or stakeholders with a direct interest in customs due diligence and security issues of supply chains. The objectives of the meeting were: to present the overall results of this project, to promote the due diligence and security guides that have been developed, to encourage Jordan supply chain companies to commence implementation of the due diligence models and the security guide and to secure consensus on further steps that need to be implemented in the near future.

The project results were presented by the International Research Corporation (IRC) and the AMIR Program to all stakeholders in a half-day meeting. The meeting took place on October 13, 2004 and attended by representatives from Jordan Customs Department, Ministry of

Industry and Trade, Ministry of Agriculture, Ministry of Health, Ministry of Finance, Ministry of Transport, Ministry of Planning, Ports Corporation of Aqaba, Free Zones Corporation, Aqaba Special Economic Zone Authority, Institution for Standards and Metrology, all Qualified Industrial Zone (QIZ) Estates, Investment Promotion Corporation, trade-related non-government associations, chambers of industry and commerce, and nearly eighty Jordan supply chain companies (manufacturers, importers, exporters, transporters, shippers and customs brokers).

At the end of the meeting an open discussion was held to identify the necessary implementation steps to be undertaken in the near future by all stakeholders to move forward with implementing the project results. Accordingly, the participants have agreed by consensus on the following protocol for carrying the project results forward for implementation.

Implementation Protocol

Title

Develop Due Diligence Standards for the Trade Community of Jordan

Funding

Funded by the United States Agency for International Development (USAID)

Stakeholders

Jordan Customs Department, other government border-crossing and/ or trade-concerned agencies and Jordan supply chain companies.

Date of Meeting

October 13, 2004

Conclusions

Stakeholders agreed by consensus on the following protocol for implementing the project's results:

1. All attending parties, including the business community of Jordan and Jordan Customs Department, are committed to facilitating Jordan's trade with other countries. All attendees realize that trade facilitation will have positive impacts on Jordan's economic growth and development.
2. All attending parties, including the business community of Jordan and Jordan Customs Department, realize the need to work together as one team to facilitate Jordan's trade with other countries. The Golden List Program of Jordan Customs is considered a modern tool for improving customs compliance and freight security; thus the program deserves the business community's support via taking all necessary steps to participate in it.

3. All attending parties realize the urgent need for applying customs due diligence principles. Thus, the business community should start voluntarily reviewing their internal processes making use of the due diligence models prepared in this study.
4. All attending parties realize the importance of this study results with respect to Jordan customs law. All parties recommend that Jordan Customs Department review its current law to include the modern concepts of reasonable care, prior disclosure, regulatory audit and record keeping.
5. All attending parties realize the importance of applying post-audit processes based on voluntary compliance, with offering compliant companies certain benefits, by Jordan Customs as a modern risk management tool. All parties agree that supply chain companies can voluntarily invite Jordan Customs to perform post-audit processes to verify compliance with the Golden List Program's requirements. Jordan Customs Department will study all received invitations and respond to them immediately once the program implementation steps commence. Jordan Customs will offer the compliant companies a group of benefits and include them in the Golden List.
6. The business community of Jordan realizes the need for implementing supply chain security measures as an important tool to increase Jordan's export capacity to the United States of America, the European Union Countries and all other trade partners. The participants recognize the pivotal role of Jordan Customs Department as a member of the World Customs Organization to take steps to facilitate, measure and certify the actions of Jordan's supply chain companies in the near future.
7. All stakeholders respectfully request continued funding from the United States Agency for International Development through the AMIR Program for the implementation of the due diligence models, the implementation of supply chain security measures, and the implementation of the Golden List Program in general.

Appendix 1

A Due Diligence Guide for Jordan Trade Supply Chain Companies

WHAT IS INTERNATIONAL TRADE SUPPLY CHAIN?

The international trade community includes two main components-- importers and exporters-- in addition to all other supporting components like freight forwarders, in-land and ocean transporters, warehouse operators and customs brokers. All these components are sometimes referred to as “supply chain” because they carry out the duty of supplying goods around the world. Since all these components are involved in international trade, i. e. moving freight between different countries, they must deal or transact with customs departments/ services. An importer and an exporter/ manufacturer participate in an international trade transaction that is cleared by two-or-more different customs departments. The importer and the exporter/ manufacturer continuously need the services of a customs broker, freight forwarder, warehouse operator, in-land and/ or an ocean transporter. Thus, customs departments/ services naturally play a pivotal role in international trade; without customs all trade supply chain components will not be able to do their business.

WHAT IS JORDAN TRADE SUPPLY CHAIN?

Jordan trade supply chain companies include Jordanian importers, exporters/ manufacturers, freight forwarders, in-land and ocean transporters, warehouse operators and customs brokers. Jordan supply chain is considered part of the much bigger international supply chain. Jordan trade transactions with other countries depend heavily on Jordan supply chain companies.

All Jordan supply chain companies must, one way or another, transact with the Customs Department of Jordan. The trade activities carried out by Jordan supply chain companies are normally cleared by the Jordan Customs Department (JCD). Thus, the JCD plays a pivotal role in Jordan’s trade with other countries; without customs all Jordan supply chain companies will not be able to do their business. Both parties, the JCD and Jordan supply chain companies, are considered the backbone of Jordan’s trade with other countries. The economic and developmental benefits to Jordan from international trade cannot be realized without both parties.

RELATIONSHIP BETWEEN JORDAN CUSTOMS AND JORDAN SUPPLY CHAIN

In all countries, including Jordan, a major difference exists between customs departments and supply chain companies: customs departments/ services are government entities while supply chain companies are mainly private entities. The implication of this major difference is that governments, represented by their customs departments, and private-sector international trade supply chain companies must cooperate and work together to facilitate their business operations. Similar to other countries, Jordan supply chain companies, for sure, would like to do more business (i.e., more trade activity) while JCD would like to facilitate trade flow with minimal effort and resources on its part (as long as Jordan national interests like government revenue, peoples’ health and safety, national security, ... etc. are well protected).

In the past, and in all countries including Jordan, the relationship between customs departments and international trade supply chain companies was not a cooperative one. On the one hand, customs departments used to view trade supply chain companies as opponents who tend to evade customs laws to make more profits. Trade companies, on the other hand,

used to view customs departments as trade barriers that cost them unnecessary delays and hamper their trade activities. Fortunately, over the last ten years or so this view from each side towards the other has witnessed a dramatic change in many countries (including the USA, European Union countries, Canada, Australia, and almost all other developed countries). In these countries, both parties came to the same conclusion that they must cooperate and work together for their own self-interest. We, the Customs Department of Jordan, try our best to follow these countries and open all channels of cooperation with Jordan supply chain companies. Our aim is to facilitate Jordan's trade with all other countries. The JCD realizes that Jordan's trade with the international community can not be enhanced, and will not lead to the desired economic and developmental benefits to Jordan, without cooperating and working side-by-side with all Jordan trade supply chain companies. There are few important reasons for this new era of cooperation as discussed in the next section.

COOPERATION BETWEEN JORDAN CUSTOMS AND TRADE SUPPLY CHAIN

The whole international community, including the USA, European Union, Canada, Australia, and almost all other developed countries have reached an important conclusion with respect to international trade: Customs departments and all private-sector international trade supply chain companies must work together side-by-side to facilitate international trade. We, the JCD, agree with this conclusion and we have important reasons for doing so as described below.

1. *Jordan Customs Should Work With Jordan Supply Chain Companies to Find Optimal Ways of Facilitating Trade Transactions:* The JCD, like all other customs departments around the world, is not concerned with all trade transactions/ shipments that cross Jordan borders; rather, we are concerned with high-risk transactions/ shipments that might be in violation of our national interests and/ or endangering our people and legitimate businesses. The JCD realizes that it should facilitate the majority of low-risk trade transactions/ shipments and focus its efforts on the few high-risk transactions/ shipments. We realize that the majority of Jordan supply chain companies are “good” companies that would like to participate in the international trade without violating any laws or endangering national interests. Thus, it makes more sense for our department and the “good” Jordan supply chain companies to work together with the aim of finding optimal ways to facilitate trade transactions performed by these “good” companies. Thus, we both, the JCD and the Jordan supply chain companies, must work together to find the optimal ways of facilitating Jordan trade.
2. *Jordan Customs Should Work With Jordan Supply Chain Companies to Develop Reward Mechanisms for the “Good” Companies:* Like many other customs departments around the world, the JCD has started to realize that “good” Jordan supply chain companies that take an extreme care in conducting their business transactions must be rewarded. If these “good” companies are treated in the same way as the “bad” ones, then there would be no incentive for them to keep up the good work. If this later scenario happens, then our department will face a huge work load and will not be able to fulfill its duties. In other words, our department realizes that it should focus its efforts on “bad” companies and should not waste its efforts on “good” ones; “good” companies normally carry out their business duties with an extreme care even without customs interference. Thus, we both, the JCD and the Jordan supply chain companies, must work together to develop certain reward

incentives to encourage the “good” companies keep up the good work. The incentives will also encourage the few “bad” companies to improve their work; otherwise they will not benefit from such incentives.

3. *Jordan Customs Can not Cope With the Escalating Volumes of International Trade and Must Seek Assistance From Jordan Supply Chain Companies:* The whole world has entered into a new era of free international trade. All countries have realized that free trade has positive economic and developmental impacts; that is why many, including Jordan, have already joined the World Free Trade Agreement. This era of free international trade has dramatically increased the world international trade volume. Within this environment, customs departments, including Jordan customs, have realized that they cannot cope with the increasing trade work load, unless, much of this work is shifted to the trade supply chain community. Thus, it is no surprise that many customs departments around the world, including us, have started what so called “self-compliance” programs. In these programs, supply chain companies prove to customs that they are “good” companies and should be relieved from certain customs requirements (e.g., repetitive inspections of their trade transactions/ shipments). In other words, supply chain companies exercise extreme care in their business transactions; thus minimal effort would be needed to monitor them by customs. Thus, we both, the JCD and the Jordan supply chain companies, must work together to handle the escalating volume of Jordan trade while preserving our country’s national interests.
4. *Security Concerns Stipulate Maximum Cooperation:* Since the tragic events of September 11 in the United States of America, international cargo security has become an extremely important issue. Governments and the international trade community have concluded that cargo shipments could easily be penetrated by terrorists to transfer weapons of all types between countries. To prevent that, customs departments around the world, including Jordan customs, have realized that they cannot respond to the security concerns without close cooperation with the trade supply chain companies. Thus, we both, the JCD and the Jordan supply chain companies, must work together to respond to the security concerns which might be detrimental to our economy and national security.

DUE DILIGENT SUPPLY CHAIN COMPANIES

As discussed in the previous section, the current trend internationally is that customs departments, including Jordan customs, should work closely with supply chain companies to encourage self-compliance with customs laws, and more often other relevant trade laws. Being Jordanian or not, “good” supply chain companies, as stated above, normally do their best or take an extreme care in performing their business operations; thus self-comply with customs laws and trade-related laws. In reward, customs departments generally offer these “good” companies certain favorable facilities (incentives); for example being relieved from repetitive customs inspections of their trade transactions/ shipments, or offered goods pre-arrival clearance, etc. But, how customs departments, including us the Jordan customs, could qualify companies as being “good”? And, what comprises a “good” supply chain company? “Good” companies, as viewed by customs, including us the Jordan customs, and the trade community at large, are those that develop and implement a so called “due diligence” system. The definitions and benefits of a due diligence system are explained below.

DEFINITION OF DUE DILIGENCE

In the English language, and according to most dictionaries, “diligent” means “hard-working” or “putting care and effort into what one does”, or “done with care and effort”. The word “diligence” is taken from the Latin word “diligens” which means “conscientious”. Due diligence, as a term, means taking reasonable care in performing a task or a group of tasks. Obviously, this definition of diligence is clear on one important aspect; it requires effort and hard-work.

From the legal view point, due diligence (or reasonable care) is the degree of care a reasonably prudent person would use under like circumstances. This legal definition is very important in one aspect: the degree of care is legally measured in relative terms rather than absolute terms. For example, the level of care we expect from a 10-years old kid would be different from what we expect from an adult. A larger importer who has more business resources available, for example, is expected to make less customs transactions errors compared to a smaller importer. Thus, what comprises a reasonable care behavior is really something relative to what “comparable” others would do under the same circumstances.

Based on the above definitions, due diligence for any business entity (company) means developing and implementing a system of procedures to carry out business operations in the “best way possible”. The “best way possible” could mean different things for different business entities; for example reducing business risks, or reducing legal exposure or liability, or complying with industry’s code or best practices, or promoting business image within industry, etc.

Within the international trade supply chain community, due diligence for any supply chain company (including Jordan supply chain companies) generally means developing and implementing a system of procedures to carry out business operations in the “best way possible”. The “best way possible” generally means:

- Complying with customs laws, regulations, instructions and directives. For Jordan supply chain companies in particular, the Jordan customs law, and all related regulations, instructions and directives must be complied with.
- Complying with international and local trade laws (export and import laws, goods transport laws, prohibited/ restricted materials laws, intellectual property rights laws, trade marks laws, international/ or multi-lateral trade agreements, bilateral trade agreements, quota restrictions laws, health and product safety laws, etc.). For Jordan supply chain companies in particular, Jordan trade-related laws must be complied with; in addition to all relevant international laws/ agreements.
- Complying with the relevant industry best practices. For Jordan supply chain companies in particular, relevant industry best practices on the local (Jordan) level, and preferably the international level should be complied with.

EXAMPLES ON DUE DILIGENCE

The following examples are aimed at explaining the due diligence system as applied to supply chain companies (including Jordan supply chain companies). They are just few examples to enhance the understanding of the concept, and do not represent an exhaustive due diligence list. However, it should be noted that detailed and separate due diligence lists for Jordan importers, exporters, freight forwarders, warehouse operators, transporters and customs brokers are being prepared by Jordan customs. The reader should refer to these lists for in-depth details (lists can be obtained from Jordan customs).

- *Example 1:* A Jordan import/ export company that has an up-to-date record of the Jordan customs law and Jordan customs regulations, instructions and directives is exercising due diligence. In addition, if this company is truly due diligent, then it should have a written procedure on how to obtain an official copy of the latest Jordan customs regulations, instructions and directives. A company that does not have this record, and does not even know how to obtain this record, is a non due diligent company. The difference is obvious: how can a company comply with a certain law and relevant regulations, instructions and directives if this company does not even have a copy of such materials?
- *Example 2:* A Jordan customs brokerage/ freight forwarding company that has a well-maintained record of all Jordan customs-related paperwork (or electronic files) for each customs transaction is exercising due diligence. This company can provide Jordan Customs, and equally-important its clients, with an account of all its customs-related transactions when requested. A company that does not have a well-maintained record, and does not even know how to keep a good record (or for what purpose), is a non-due diligent company. The difference is obvious: how can we, the JCD, ease-up our paper work requirements if you, the broker/ forwarder, can not keep your paper work for later review/ inspection?
- *Example 3:* A Jordan import/ export company that contracts with a customs brokerage company to clear its customs-related transactions, but does not have enough information about the broker's background or experience, is not a due diligent company. A due diligent importer/ exporter would worry about knowing all relevant background information about its customs brokers. Further, a due diligent import/ export company would have a written list of the required qualifications expected from its broker. The difference is obvious: if you, the Jordan importer/ exporter, would really like to have error-free transactions with Jordan customs, then you should hire an error-free customs broker who has good experience in what he does.
- *Example 4:* A Jordan trucking carrier that does not have a tracking system of all its operating fleet is not a due diligent carrier. A due diligent carrier would have a system in place to know where every single truck is at any point of time. With heightened security risks around the whole world, it is important for every Jordan carrier to know where every unit of its fleet is located at any time. A non-due diligent carrier may not even have a way of communication with its fleet drivers. The difference is obvious: as a Jordan carrier, how can the Jordan Customs, and equally-important your clients, trust you with their transit or other shipments if you do not know where the good are during the day?
- *Example 5:* As a Jordan exporting company, do you have adequate information about the reputation of the local/ foreign carrier that transports your exports to other countries? If not, what could be the reason? A due diligent exporter surely has this information. The difference is obvious: if you, the Jordan exporter, are proud of being "due diligent" in choosing your carrier/ business partners/ service suppliers, then why deal with a "non diligent" or unknown carrier?

- *Example 6:* As a Jordan supply chain company, regardless of your line of business, do you have a good accounting system in place? Is this system detailed enough to show all your import/ export transactions in terms of goods types, quantities, prices, etc.? Can we, the JCD or any concerned entity, verify all customs duties and taxes through auditing your accounts? A due diligent supply chain company would have a good accounting system in place, and would be proud to be transparent enough with the Customs Department and other concerned entities. The difference is obvious: we, the JCD, would like to release your goods as quickly as possible and would like to expedite your customs transaction; however, can we verify everything related to your customs transactions via a later audit (called goods post-release audit)?

BENEFITS OF DUE DILIGENCE

After understanding the meaning of due diligence, is it logical now to justify why should a Jordan supply chain company develop and implement a due diligence system of procedures? The list below summarizes the most important reasons/ benefits.

1. *Preferential Treatment by Customs:* customs departments in many countries, including the United States of America, European-Union Countries, Canada, Australia and many others, offer a preferential treatment to companies that implement due diligence systems. The JCD intends, as a first stage, to offer the following incentives to the due diligent Jordanian companies (under the Golden List Companies Program being developed by Jordan customs):
 - Reduced frequency of inspections by customs. Depending on the quality of the due diligence system in place, only one of every three or five shipments, for example, might be inspected by customs.
 - Reduced goods post-release compliance audits. Customs inspections of companies' books to verify duty payment and general compliance with the customs law will be less frequent for due diligent companies.
 - Pre-arrival clearance of goods. Completion of customs transactions formalities will take place before goods arrival for due diligent companies.
 - Minimum levels of financial penalties. Due diligent companies will enjoy the minimum levels of penalties when inadvertently make an error on a customs transaction. Also, penalties might be paid in installments.
 - Goods release before completing customs formalities. Due diligent companies could take possession of their goods against certain securities before completing customs formalities.
 - Security facilities. Due diligent companies will be able to benefit from taking possession of their goods against lesser financial securities.
 - Clearance of goods during off-work hours. Customs will strive to clear goods for due diligent companies even during customs off-work hours.
 - Expedited clearance times of customs transactions. The clearance times of due diligent companies' customs transactions are generally shorter because of the low-risk tag placed on them by customs.
 - An assigned account manager. Customs Departments sometimes assign a Custom officer to manage a due diligent company's Customs account. Thus, due diligent companies are served better by Customs, and have more access to

- the Customs Department. Significant time savings could be realized by due diligent companies.
- Security facilities. Sometimes, due diligent companies are offered a X-days delay facility for paying Customs duties and taxes. Some other times, due diligent companies settle their Customs duties and taxes on a monthly basis with the possibility of differed payment facility. Also, the amounts of financial securities/ guarantees required from due diligent companies are more often lower than other companies.
 - Reduced documentations and paper work. The documents and paper work requirements are usually eased up for due diligent companies. Customs usually trusts the ability of due diligent companies to maintain good documentation of their customs transactions.
2. *Reduced Customs Transactions Costs:* Due diligent companies are always favored by customs departments. Regardless of being offered formal facilities/ incentives like the above or not, due diligent companies, because of the trust placed on them by customs, enjoy an expedited processing for their transactions. Of course, this translates into cost savings, and consequently a competitive advantage in the markets where they operate.
 3. *Due Diligence is a Marketing Tool:* The trade community in one country is linked to the trade communities in other countries. For example, a due diligent importer in the United States of America would prefer a due diligent exporter/ manufacturer from Jordan as a trade partner. Therefore, a Jordanian exporter/ manufacturer that exercises due diligence would gain preference over other exporters from Jordan or from other countries. The same applies to all supply chain companies; due diligent companies always prefer to deal with each other.
 4. *Due Diligence is an International Mandate:* In the developed world, all supply chain companies are already in the race of showing off their due diligence systems. This means, in the near future, almost all international trade activities will be carried out by due diligent supply chains. Soon, no place will be left for non-due diligent companies; it seems that the choice now is between being a due diligent company or a company with no business. It is extremely important for Jordan supply chain companies to realize that due diligence systems are not anymore a choice, rather, they are an international mandate.
 5. *Reduced Operating Costs:* Due diligent companies, whether supply chain or not, always receive favorable treatment from governments and private-sector organizations. A due diligent company would be offered more discounts on its purchases, better payment terms, more finance by banks, reduced insurance rates, etc. All these facilities are gained because of the high trust others place on due diligent companies. Of course, all these and similar facilities ultimately translate into reduced company operating costs.
 6. *Due Diligence Prevents Errors and Mistakes:* Because a due diligent company has written procedures for performing all its business operations, it is less likely that this company will make errors on customs transactions or other business transactions. This is very important to avoid unnecessary delays in customs transactions, and to avoid additional non-justified costs.

7. *Due Diligence is a Legal Defense Mechanism:* Due diligence is considered an important mechanism to defend a company, its directors, managers and employees who could be otherwise found liable under the laws. With the presence of a due diligence system, it is much easier to justify, especially from the legal viewpoint, the company's actions, decisions, etc.
8. *Due diligence is a Management Tool:* Managements of supply chain companies frequently employ due diligence as a management tool to encourage the careful assessment of business operations, and the reasonable steps required to avoid making mistakes.
9. *Due Diligence is a Performance-Measurement Tool:* Supply chain companies always assess their performances against to what is stipulated by the due diligence procedures. Enhancements and corrective measures are normally recommended based on deviations from what is required by the written due diligence procedures.
10. *Due Diligence is Specially Important for Jordan Supply Chain Companies:* Compared to other countries, Jordan supply chain companies will benefit more from implementing due diligence. The first reason is that the US and the European Union Countries are the pioneers in due diligence; Jordan has free trade agreements to capitalize on with these countries through the utilization of due diligence. The second reason is that Jordan will be among the first few third-world countries, and the first in the Middle East region, to implement due diligence, thus, will reap its benefits earlier.

COORDINATION OF DUE DILIGENCE EFFORTS

As mentioned before, customs departments play a pivotal role in international trade; without customs all trade supply chain components can not carry out their business operations. Thus, in many countries, due diligence procedures are normally developed and implemented by supply chain companies in coordination with customs. Customs departments usually work jointly with supply chain companies to identify recommended due diligence standards/check-lists to be accommodated/ implemented by the supply chain companies. In many cases, this joint effort takes place within the context of certain initiatives. In these initiatives, customs departments propose certain programs aimed at encouraging supply chain companies to implement due diligence programs relevant to their industries. The ultimate goal of such programs is to enhance supply chain companies' capabilities to self-comply with customs (and sometimes other) laws. Customs departments usually offer certain incentives to the companies that submit to such programs. For example, in the United States of America the customs has implemented several programs to enhance supply chain companies' self-compliance with the customs law. The Importer Self-Assessment Program is one example of partnerships between US Customs and importers to maintain a high level of trade compliance. In Jordan, the Post-Audit based on Self-Compliance Program is in the verge of launch by the JCD as of the date of this writing. The program will audit import and export companies and classify them in certain categories according to a pre-set criteria. Certain incentives will be offered to these companies according to their classification categories. More incentives will be offered to the best companies; called Golden List Companies.

DUE DILIGENCE IMPLEMENTATION STEPS

For a supply chain company, after understanding what due diligence means and the benefits of implementing due diligence, it is logical now to ask how to implement a due diligence

system? The following implementation steps comprise the logical sequence for developing and implementing a due diligence system for any supply chain company. These steps are generic and may not be exhaustive; thus they should be taken as “guiding steps” to help out companies get started. Further, it should be noted that detailed and separate due diligence lists for importers, exporters, customs brokers/ freight forwarders, and carriers were prepared as part of this project, and should be consulted for more in-depth details.

Step 1: Management Commitment

Management commitment to developing and implementing due diligence procedures is the most vital step to start with. The management of the company should carefully read the “Definition of Due Diligence” and “Benefits of Due Diligence” sections above, and then make a yes/ or no decision regarding the system. If the company decides not to proceed with developing a due diligence system, then there is no sense of moving to the next step. However, if the management decides to proceed with implementing the system, then the rest of the below steps will be a matter of routine work.

Step 2: Coordinate Your Work With Customs

The JCD is the pivot around which all supply chain companies revolve. The Customs Department has already established a Risk Management Unit to assist you in developing your own due diligence procedures. Thus, work closely with this Unit and make sure that all Customs requirements are included in your due diligence procedures. If you aim to benefit from any incentives to be offered by the Customs Department, for example to become a Golden List Company, then you must accommodate all the requirements.

Step 3: Understand Customs Requirements

- Always remember that “ignorance of the law is no defense”. Therefore make sure to conduct a thorough review of the customs law, regulations, instructions and directives.
- Make sure that you have an up-to-date copies of all revisions made to the customs law, regulations, instructions and directives.
- Identify the articles in the law, regulations, instruction and directives that apply to your business operations. Always read each law article within the context of its applicability to your day-to-day business activities. Always think to what extent you really complied in the past with each relevant article. Ask yourself: how can I comply with each relevant article?
- Ensure that others in your company are made aware of their responsibilities under the customs law, regulations, instructions and directives. Ask yourself: do I have a system in place for making this information available to my employees; i.e. via memos, notices, newsletters, etc.
- Ask yourself: do I have a senior staff member to do the aforementioned reviews? Do I need an outside expert?
- Ask yourself: how can I make sure to obtain copies of all new customs law amendments, new regulations, new directives and new decisions?
- Ask yourself: are my employees, especially seniors, well informed of the relevant customs law articles?

Step 4: Understand International Trade Requirements

- Make sure to have an up-to-date copies of all trade laws, regulations, agreements and special requirements pertaining to your business operations. Think of all the laws and regulations, other than the Customs Law of Jordan, that might have a direct or indirect impact on your business activities.
- Ask yourself: am I affected by the Ministry of Industry and Trade requirements (i.e., Import and Export Law)? Am I affected by the Ministry of Agriculture requirements? Am I affected by the Ministry of Health Requirements? Am I affected by any requirements stipulated by Jordan Government agencies other than Customs? Do I have up-to-date copies of all such requirements?
- Ask yourself: am I utilizing any trade agreements between Jordan and other countries? Do I understand all the requirements/ stipulations of such agreements? What are the most relevant articles to my business activities? Do I have up-to-date versions of such agreements?

Step 5: Understand Industry Requirements

- One way or another, all industries have their own best practices. International and local industry associations usually develop generic best-practice procedures for their member companies; make sure to have them updated and handy in file.
- Ensure that the practices at your company reflect the industry best practices. However, beware that your industry standard of best practices may not be sufficient; try to beat them.
- Even when such best practices do not exist, always look up to the “best” companies in your line of business and ask yourself: how can I become like them? Seek assistance from them through your trade association or through direct contact.

Step 6: Try to be Objective

- In performing steps 3, 4 and 5 above, you need to be objective. Always remember that in doing steps 3, 4 and 5 your aim is to find your own limitations to set up certain procedures to overcome them; so, be objective and do not get disappointed when finding many limitations. Always remember that your due diligence system is supposed to overcome your limitations; if you are already perfect, then you do not need due diligence.
- If you are not sure of being objective enough, invite an outside consultant/ expert to help you out. Experts usually can see more insights into your business activities; not because they know better than you, but because they have seen other companies in your line of business.

Step 7: Keep Pro-Active

To insure your compliance with the Customs law and all other trade laws, agreements, requirements, etc. affecting your business activities, you need to be pro-active:

- Develop specific policies and procedures on how to perform your business activities according to all relevant laws, regulations, agreements, requirements, etc. (see steps 3, 4 and 5). The level of details for each policy/ procedure should be in light of the likelihood of the harm that could result (for example, the amount of penalty that may be assessed by Customs). The policies and

procedures should be distributed to all existing and newly assigned employees, and should be systematically revised as circumstances warrant (i.e., changes in law). Remember, due diligence check lists were prepared in this project to assist you carry out this step; review the list relevant to your line of business.

- Train your employees on the developed policies and procedures. Your employees should receive training to reinforce the adoption of the developed policies and procedures. Training can be done internally or externally. A record should be kept of who has been trained, what specifically they have been trained in, when training last took place, etc.
- Communicate the developed policies and procedures on an on-going basis. There should be a system in place to have the developed policies and procedures communicated to new employees or transferred employees, and re-communicated when material changes occur. For example, memos should be distributed to all departments when changes in policies and procedures occur.
- Monitor adherence to the developed policies and procedures. Such monitoring might be assigned to one of the senior staff members, or to all departments' managers as part of their jobs descriptions.
- Enforce compliance with the developed policies and procedures. Most often, management is given the authority to enforce compliance. However, regardless of who is given the enforcement authority, good records must be kept of all enforcement activities like warnings, terminations, etc.

Step 8: Keep Good Records

Good record-keeping is always a strong signal of good management. A good system of keeping all business activity records is a proof of your due diligence, and also a measure of how you are carrying out the responsibilities of your work.

Appendix 2

A Security Guide for Jordan Trade Supply Chain Companies

Jordan trade companies with the need for supply chain security include Jordanian importers, exporters/ manufacturers, freight forwarders, in-land and ocean transporters, warehouse operators and customs brokers. Jordan supply chain is considered a small part of the much bigger international supply chain. Jordan trade with other nations depends heavily on Jordan companies with active supply chain security systems.

Jordan Customs Department (JCD) is issuing this guide to assist Jordan companies implement or improve a supply chain security management system to enhance the overall security of their business operations. Is it important that all trade companies operating in Jordan review this information and take appropriate steps to minimize security risks. This document does not substitute for JCD's regulations, nor is it a regulation by itself. It cannot and does not impose legally binding requirements on JCD.

The security management system described in this guide complies, generally, with the principals set out in the:

1. The International Shippers and Freight Forwarders Security Code—Draft Rev. 4 by United Nations Center for Trade Facilitation and Electronic Business (UN/CEFACT).
2. “High Level Guidelines for Co-operative Arrangements Between WCO Members and the Private Sector” to increase supply chain security, as adopted by the WCO in its general assembly in June 2003.
3. United States C-TPAT guidelines on supply chain security.
4. International Ship and Port Facility Security Code (ISPS Code) by the International Maritime Organization.
5. BASC (Business Anti-Smuggling Coalition) Standards by the World BASC Organization.

WHY SUPPLY CHAIN SECURITY IS IMPORTANT TO JORDAN

As concern grows that combating security threats is becoming more and more important to countries, supply chain security has become a vital response mechanism. JCD, and luckily many Jordan companies, realize the importance of the supply chain security issue. Notably:

- Supply chain security has become an international mandate. It is expected in the near future that all international trade activities will be carried out through secure-only supply chains.
- Supply chain security reduces customs clearance times at borders. Thus, Jordan companies implementing security management systems will have a competitive trade advantage over others.
- Supply chain security has become a powerful marketing tool. Jordan companies implementing security management systems will be preferred as trade partners over other companies.
- Supply chain security is very important to Jordan and Jordan's trade partners. To make better use of Jordan free trade agreements with the United States (US) and the European Union (EU), Jordan companies must enhance their supply chain security management systems.
- Enhanced security will prevent the use of the logistics chain to cause harm to life, property or the environments.

- Enhanced security will prevent any illegal intervention in the supply chain which could cause serious delays and hence considerable economic damage.
- Enhanced security in the supply chain will reduce other losses like theft and damage.

GENERAL SECURITY REQUIREMENTS

- **Management Commitment:** Top management should provide evidence of its commitment to the development and implementation of the security management system. Top management should communicate to the company the importance of security awareness. Also, top management should establish a security policy, security objectives, conduct management reviews and assure the availability of resources.
- **Security Manual:** The company should establish and maintain a security manual that includes the scope of the security management system, including a clear description of the processes which the organization undertakes. (This security manual may be part of a more comprehensive due diligence process to insure self regulated compliance.) The interaction between the processes and the facilities covered by the security management system should be described in the manual. Also, a description of the interaction between the relevant authorities (e.g. Customs, Police, Civil Defense Departments) and the organization should be included.
- **Records:** Records should be established and maintained to provide evidence of conformity to requirements of the security management system. Records should remain legible, readily identifiable and retrievable. A documented procedure should be established to define the controls needed for the identification, storage, protection, security retrieval, retention time and disposition of records.
- **Security Assessment:** The security assessment is an essential and integral part of the process of developing and updating the security management system and is the delegated responsibility of the company security officer. The security assessment should be carried out by the company, with the assistance of a qualified third party if deemed necessary. The security assessments should periodically be reviewed and updated, taking account of changing threats and/ or minor changes in the company or its facilities and should always be reviewed and updated when major changes to the company or its facilities take place. The security assessment should include, at least, the following elements: a) identification and evaluation of facilities, process steps and documents which are important to protect; b) identification of possible threats and vulnerabilities to these facilities, process steps and documents and the likelihood of their occurrence, in order to establish and prioritize security measures and define restricted areas; c) identification of weaknesses, including human factors in the facilities, policies and procedures; d) identification, selection and prioritization of counter measures and procedural changes and their level of effectiveness in reducing vulnerability. Upon completion of the security assessment, a report should be prepared, consisting of a summary of how the assessment was conducted, a description of each threat and

vulnerability, found during the assessment, and a description of counter measures that could be used to address each threat and vulnerability. The report should be protected from unauthorized access or disclosure.

PERSONNEL SECURITY

Company personnel are always under the risk of being pushed or convinced to cooperate with illegal activities beyond their actual functions. Human resources may be the weakest link or the strongest one in the risk prevention chain. With selection processes we may avoid that the main interest of a new company employee would not be to work for the company but to work against it. Below are some recommendations for improving the security of your personnel.

- **Data on the Applicant:** Your company should have a detailed application questionnaire to be filled out by all candidate employees. The application form should ask for all personal data and a complete employment history. Answers to questionnaire questions should be handwritten and the form should be duly signed. This standard procedure creates a feeling of responsibility in the applicant.
- **Data checking:** Once the applicant delivers the form, a person from your company should check the information. Previous work history and personal character should always be verified from previous employers.
- **Interview:** Once data is checked, it is advisable to interview the applicant. Oral questions should be asked about the data included in the application form. During the interview, the interviewer should try to find out about the character, motivation and honesty of the applicant. Your company's policies against theft, illegal trafficking, terrorism, piracy, etc. should be stressed so as to know about the applicant's position on those issues.
- **Induction:** After being formally hired, it is necessary for the new employee to receive an induction on security standards, restricted areas, identification cards, who should be advised about irregularities. The new employee should also be trained on the ways to recognize that his/ her peers are participating in illegal activities. All employees handling cargo or handling documents must know your company's security requirements and the consequences of non-compliance.
- **Maintaining Personnel:** Human resources of your company are constantly studied by criminal organizations that want to use them, convince them or dissuade them about the possible additional benefits that they may obtain. A periodic review on aspects such as behavior, proposals received from external agents, observations on other peers, their social and economic situation, new friends, will make your employee feel protected and at the same time responsible towards the company. Also, you will demonstrate that you are concerned for your employee, that you care and the most important thing, that you know him/her. A bi-annual home visit plan for employees, in which observations are made about changes in life style, will be vital as a control mean and as a prevention against internal conspiracy.

- **Preventing Internal Conspiracies:** Criminal organizations require a connection at the companies in order to create a criminal association. “Internal conspiracies are when groups of employees within the company are engaged in illegal activities.” The need of using company people is because they know processes and data, operation and security procedures and because they have physical access to different areas. People with the ability to become familiar and with good human relation skills might be beneficial or dangerous. For control positions to provide service to external users with the responsibility of delivering or accepting cargo or documents, it would not be advisable to have that skill.
- **Incentives:** Some incentives for those individuals or employees making reports on activities related to suspicious aspects or vulnerable processes allow the creation of a dissuasive environment and a continuous improvement of safety and security standards.

PHYSICAL SECURITY

Physical security is another important dimension of securing your company’s business operations. Physical security focuses on the company’s buildings, premises, storage areas, parking, gates, etc. Below are some recommendations for improving the physical security of your business.

- **Cargo Storage Areas:** All buildings used for cargo storage and the related ones should be built with resistant materials that would prevent illegal entry. Structure integrity should be maintained through periodic inspection and repair. Doors and windows should be secure. Restricted areas and their access control should be well signaled.
- **Perimeter Fencing:** The basic principle is to have physical barriers to avoid access of non authorized vehicles or individuals to a company plant. Fences or division walls sufficiently separated from buildings so as to have reaction time and observation possibilities. No debris or trees should be close to the fence since they could be used as support elements to violate integrity. Periodical inspection of the fence is required to verify its condition.
- **Doors:** The number of doors should be the minimum necessary to provide adequate access to the plant and to cargo storage areas. Doors should provide a defense against non-desired access of vehicles and individuals. Doors should have physical security barriers and people to control them. Signals and warnings should be placed on doors regarding the responsibility and company procedures to notify about criminal events that might take place in company facilities.
- **Lighting:** Adequate lighting should be provided for entry areas or gates, storage and cargo operations areas, perimeter fencing and parking areas. It is recommended to have an emergency lighting system for valuable cargo storage areas or for vital process execution areas.
- **Locks and Key Control:** Locks and keys used in building doors and equipments should have the necessary protection to avoid the access of non-authorized

individuals. Key and lock control should be handled by the person in charge of the area or by security personnel. It is recommended that your company has a key storage closet with its key always carried by the shift security person. Also, it is recommended to have a document to record the reception and delivery of high risk area keys.

- **Guard Booth:** Facilities where large amounts of cargo are handled, especially for export purposes, should have guards and booths in all vehicle entry and exit gates during working hours. Automatic access control systems such as defense bars and gates allow better control over the security activity. Emergency lighting system is vital to avoid sabotage.
- **Parking:** Non-company cars should be forbidden from parking in the cargo area and in the areas close to cargo storage buildings. Security service should control employee-parking access. Employee parking should be separated from visitor parking.
- **Communications:** A good communication service should exist between company guards and security authorities. Resources such as telephone, portable radios, alarms should be used. An emergency electric power system is vital for the continuity of security functions.
- **Access Control:** Without physical access to plants or areas it is impossible to have thefts, illegal traffic, terrorism and piracy; thus it is important to have access control. If fewer people have access to documents, cargos and/ or storage areas, the possibility of risk will be lower. There should be control on the time people have access to facilities, especially cargo storage areas. Inactivity should not be allowed in sensitive areas. A hanging map showing restricted areas for each type of employee, visitor and user is highly recommended. Signs advising customers and users about the importance of security and company standard compliance should be placed in conspicuous locations.

OPERATIONS SECURITY

Operations security is yet another dimension of securing your company's business operations. Operations security focuses on the company's security officer in charge, security of the sensitive jobs, employees identification and training. Below are some recommendations for improving the operations security of your business.

- **Security Officer:** Depending on the size of your company, you may consider having a security organization to protect your business operational activities. A company representative should be appointed as a security officer and should be in charge of all security duties. Security personnel should wear different uniforms from other employees.
- **Sensitive Jobs:** All people working in sensitive jobs, especially those responsible for cargos, documents and valuable items, should go through a careful pre-hiring background checks.

- **Identification Systems:** All company personnel and in general, all personnel that have access to the company areas should be duly identified. Identification, whether by color number or inscription, should indicate the areas the person is authorized to have access to. Identification cards should be used and should have, as a minimum, the employee physical characteristics, a color photograph, signature and a reasonable expiration date. All personnel should carry the identification in a visible place. For administrative personnel, the card may be a hanging batch or a batch clipped in the right pocket. For operations personnel, a bracelet is used (industrial safety standard) to avoid losses and accidents. Use reflective vests or different color uniforms for each sensitive area in order to have more visual recognition, especially when monitoring cameras are used.
- **Security Knowledge and Training:** The company should have programs to train all personnel with respect to security policies and practices as part of its operations.

CARGO HANDLING SECURITY

Security measures should be implemented in the plant during the course of cargo reception and delivery, including handling empty and full containers. Below are some recommendations for improving the security of cargo handling processes.

- **Empty Containers:** Empty containers received at the plant to be stored or filled out should be checked (for general cargo or refrigerated cargo). The check of the empty containers should be made at the time of arrival, and again at the time of filling. This is important to prevent a structure modification to the container for trafficking in illegal goods.
- **Full Containers:** Filling containers with cargo should be done with the presence of security personnel. Also, handling full containers from the storage area or from the plant should be security-supervised.
- **Reception and Delivery of General Cargo:** Forms or registry books should be kept of all cargos received or delivered. Record the entrance and exit time of all cargo loads, names of persons receiving and delivering, amounts of cargo by packing unit type, packing condition and security seal or stamp. If there is a problem with packaging, evidence should be recorded with a photograph and scale weight record.
- **Inspection of Non Company Vehicles:** All non-company vehicles should have restricted access to operation areas. However, when allowed access, these vehicles should be inspected or, preferably accompanied by security personnel. The method of inspecting such vehicles should be well documented and adhered to at all times.

DOCUMENTS AND DATA SECURITY

Efficacy of your company's security standards for facilities and operations depend on the control of documents and data. Documents with which you receive, pack, unpack, transport, deliver or transfer the responsibility from your company to another, or from one area in your company to another, are especially important. Below are some recommendations for improving documents and data security of your business.

- **Documents Access and Responsibility:** Limit as much as possible access to data or information. Implement clear procedures for documents responsibility. Set closing processes and confrontation processes between operating activities and documents generated by them. Set up formal delivery procedures and information files. Have a secure area for storing documents and information.
- **Cargo Documents:** All personnel working with cargo documents have the opportunity to recognize suspicious shipments that should not be received nor transported. In the event it is already in the facilities, the responsible agencies in charge of control should be notified. Careful examination is required of all cargo documents, transportation agreements, invoices, customs documents and others. An accurate account must be kept of all cargos handled or received. Only legible documents should be processed; illegible documents should be replaced or else rejected. Documents confidentiality should always be protected. Only authorized signatures should be accepted. Identification of authorized persons should be checked. Clear procedures should be set to notify about suspicious activities.
- **Signatures and Stamps Policy:** The signatures and stamps policy is generally applicable to document preparation processes, application of seals, breaking seals, physical count of parts, individuals checking, cargo and opening the vault. Documents with which responsibility over cargo is transferred or when a service is provided should be signed by the person delivering it and by the one receiving it. Besides the signature, it is vital to stamp time and date with a printing clock. Only official employees of the company may sign relevant documents on delivery, reception, or responsibility transfer over a good.
- **Last-Minute Shipment Documents:** Experience showed that last minute documents received under pressure are largely used by criminal organizations to avoid risk analysis of suspicious shipments and authority controls. Thus, there should be a defined policy to receive documents with sufficient time in advance for cargo entry or exit. A special control should be in place to handle last minute shipments. A clear process should be in place on how to advise authorities about a last minute shipments.
- **Computerized Documentation:** Information systems represent great help to increase security standards levels on administrative processes supporting physical operations. There are two types of computer information crimes; one in which the actual victim is the system (software or hardware damage) and one in which the system is used as an instrument for illegal actions. Thus, there should be a system access control mechanism, and preferably a discriminating users ability. Physical security in the servers area should be provided. Backup processes should be implemented frequently.

Specific to Forwarders and Transporters

These specific requirements are applicable to all companies who are engaged in the moving of containers by road, rail or inland waterway.

- Only containers are accepted to be loaded on the company means of conveyance which are properly marked, and have the correct weight and documentation.

- Containers, whether loaded or empty, only should be loaded when they are tamper proof sealed and this sealing is properly documented.
- Containers are moved according to pre-defined schedules, including routes and stops, and unexpected delays and deviations are to be reported to the company.
- Origin site should pre-alert destination site before shipment. Such pre-alert should contain as a minimum: departure time, expected arrival time, transport companies name, employee name, and seal numbers.
- Security pertinent equipment should be properly maintained and calibrated.
- Before loading, at departure and after each prolonged stop, seals should be checked for tampering, all readily accessible areas should be physically searched and internal/ external compartments and panels should be secured. These checks should be recorded and records be kept for at least one year and be accessible to other participants in the supply chain for verification.
- Control cabins of means of conveyance, when not manned, are kept locked at all times and only employees of the company are allowed to have access.
- Documentation containing cargo information is kept secure in the control cabins.
- Control cabins are equipped with an intrusion alarm.
- Procedures should be in place for reporting when unauthorized personnel, un-manifested materials, or signs of tampering, are discovered.
- No prolonged stops should be made at isolated locations, unless such location is equipped with adequate lightening and fencing.
- Vehicles should only make prolonged stops at locations which are equipped with adequate lightening and fencing.
- Vehicles should not be left unattended.

Specific to Warehouses, Storage Areas and Terminals

These specific requirements are applicable to all companies who, as part of their operation are engaged in the storage of cargo and/ or sealed containers in warehouses, on storage areas and terminals, independent of nature and size.

- All cargo entering the warehouse or storage area should be properly marked, weighed counted, documented and inspected for the absence of illegal goods or attributes.
- That all containers entering the premises are properly sealed and that the seal is compliant to its documentation.
- That all cargo and containers are compliant with their documentation and manifests.
- That received containers, when emptied, are sealed again and that such sealing is properly recorded.
- Adequate maintenance and calibration of any security pertinent equipment should be made.
- Warehouses and storage areas for outward bound cargo as well as terminals should be identified as restricted areas.
- Unauthorized access to facilities should be prevented.
- Access controls should include positive identification and recording of all employees, suppliers, visitors, and vendors on site.
- Visitors should not be allowed to move around the facilities without accompaniment of an employee.
- Unauthorized / unidentified persons should be challenged.
- Authorization to access restricted areas should be clearly visible.

- Security codes, cards and/ or keys should only be submitted to authorized persons for which records should be held.
- The identification of lorries, entering or leaving the premises, and their drivers and passengers should be recorded.

Specific to Stuffers and Packers

These specific requirements are applicable to all companies who, as part of their operation are engaged in the stuffing, packing, loading, re-loading or consolidating and consecutive sealing of containers, independent of their size and type of processes of this operation.

- The designated company security officer or one of his designated deputies should be physically present during loading/ unloading of the container and supervise the introduction or removal of cargo into/ from the container. This measure is to prevent the infiltration of unauthorized weapons or any other dangerous substances.
- Inspection of empty or partially loaded containers to detect any security breach, immediately before loading.
- The supervision mentioned above should be uninterrupted from the start of the inspection until the container is sealed.
- The supervision should include verification that seals on received containers are intact and conform to the appropriate records.
- Marking, weighing, counting and documenting of cargo entering the container is properly performed.
- All cargo should be compliant with its documentation and manifests.
- The designated security officer (or his deputies) should seal the closed container with an approved tamper proof seal immediately upon loading and properly record the data of this seal.
- Unauthorized access to facilities should be prevented.
- Access controls should include positive identification and recording of all employees, suppliers, visitors, and vendors on site.
- Visitors should not be allowed to move around the facilities without accompaniment of an employee.
- Unauthorized / unidentified persons should be challenged.
- Authorization to access restricted areas should be clearly visible.
- Security codes, cards and/ or keys should only be submitted to authorized persons for which records should be held.

Specific to Information Processors

These specific requirements are applicable to all companies (including brokers, agents etc,) who as part of their operation are engaged in the receiving, processing or forwarding of information to the Jordan Customs Department or other parties in the supply chain.

- Complete, legible and accurate documents should be submitted timely to Customs.
- An analysis should be made of the vulnerability of information systems, the relevance to security of data and the implementation of adequate safeguards and firewalls.
- Access authorization system should be implemented to protect computer systems and computer data against exchange, loss or introduction of erroneous information.
- Security critical information should only be accessible by authorized personnel and that the users of this information can be traced back.

- Routines should exist to securely cope with break downs and secure back-up routines should be followed.
- The transporter or forwarder should be informed when during the processing of information it is noted that the progress or movement of containers deviates from pre defined schedules.
- Overages and shortages, as well as other anomalies, observed during the processing of information, should be reported not only to the customs, but also to the company(s) responsible for the processing of the cargo.
- Unauthorized access to facilities should be prevented.
- Access controls should include positive identification and recording of all employees, suppliers, visitors, and vendors on site.
- Visitors should not be allowed to move around the facilities without accompaniment of an employee.
- Unauthorized / unidentified persons should be challenged.
- Security codes, cards and/ or keys should only be submitted to authorized persons for which records should be held.

Appendix 3

A Security Pamphlet for Jordan Trade Supply Chain Companies

Jordan Customs Department
August 2004

Supply Chain Security for Jordan Trade Companies

Jordan trade companies with the need for supply chain security include Jordanian importers, exporters/ manufacturers, freight forwarders, in-land and ocean transporters, warehouse operators and customs brokers. Jordan trade with other nations depends heavily on Jordan companies with active supply chain security systems.

Jordan Customs Department (JCD) is issuing this brochure to assist Jordan companies implement or improve a supply chain security management system to enhance the overall security of their business operations. It is important that all trade companies operating in Jordan review this information and take appropriate steps to minimize security risks. This document does not substitute for JCD's regulations, nor is it a regulation by itself. It cannot and does not impose legally binding requirements on JCD.

Why Supply Chain Security is Important to Jordan?

As concern grows that combating security threats is becoming more and more important to countries, supply chain security has become a vital response mechanism. JCD, and luckily many Jordan companies, realize the importance of the supply chain security issue. Notably:

- Supply chain security has become an international mandate. It is expected in the near future that all international trade activities will be carried out through secure-only supply chains.
- Supply chain security reduces customs clearance times at borders. Thus, Jordan companies implementing security management systems will have a competitive trade advantage over others.
- Supply chain security has become a powerful marketing tool. Jordan companies implementing security management systems will be preferred as trade partners over other companies.
- Supply chain security is very important to Jordan and Jordan's trade partners. To make better use of Jordan free trade agreements with the United States (US) and the European Union (EU), Jordan companies must enhance their supply chain security management systems.
- Enhanced security will prevent the use of the logistics chain to cause harm to life, property or the environments.
- Enhanced security will prevent any illegal intervention in the supply chain which could cause serious delays and hence considerable economic damage.
- Enhanced security in the supply chain will reduce other losses like theft and damage.

General Security Requirements

Company's top management commitment is the first and most important step to the development and implementation of a security management system. Top management should establish a security policy, security objectives, conduct management reviews and

assure the availability of resources. The company should establish and maintain a security manual that includes the scope of the security management system, including a clear description of the processes, which the organization undertakes. Records should be established and maintained to provide evidence of conformity to requirements of the security management system. A security assessment is an essential and integral part of the process of developing and updating the security management system. The security assessment should include the identification and evaluation of facilities, process steps and documents that are important to protect, and identification of possible threats and vulnerabilities to them.

Personnel Security

Company personnel are always under the risk of being convinced to cooperate with illegal activities beyond their actual functions. With selection processes we may avoid that the main interest of a new company employee would not be to work for the company but to work against it. Your company should have a detailed application to be filled out by all candidate employees. The application form should ask for all personal data and a complete employment history. Answers by an applicant should be handwritten and the form duly signed. Previous work history and personal character should always be verified from previous employers. It is always advisable to interview the applicant. The interviewer should try to find out about the character, motivation and honesty of the applicant. After being formally hired, it is necessary for the new employee to receive an induction on security standards, restricted areas, identification cards, etc. All employees handling cargo or handling documents must know your company's security requirements and the consequences of non-compliance.

Physical Security

Physical security focuses on securing your company's buildings, premises, storage areas, parking, gates, etc. All buildings used for cargo storage and the related ones should be built with resistant materials that would prevent illegal entry. Structure integrity should be maintained through periodic inspection and repair, and doors and windows should be secure at all times. Restricted areas and their access control should be well signaled. Perimeter fencing should be installed to avoid access of non-authorized vehicles or individuals. Access doors should be the minimum necessary to provide adequate access to the plant and should provide a defense against non-desired access of vehicles and individuals. Adequate lighting should be provided for entry areas or gates, storage and cargo operations areas, perimeter fencing and parking areas. Locks and keys used in building doors and equipments should have the necessary protection to avoid the access of non-authorized individuals. Facilities where large amounts of cargo are handled, especially for export purposes, should have guards and booths in all vehicle entry and exit gates during working hours. Non-company cars should be forbidden from parking in the cargo area and in the areas close to cargo storage buildings. A good communication service should exist between company guards and security authorities.

Operations Security

Operations security is yet another dimension of securing your company's business operations. A company representative should be appointed as a security officer and should be in charge of all security duties. All people working in sensitive jobs, especially those responsible for cargos, documents and valuable items, should go through a careful pre-hiring background checks. All company personnel and in general, all personnel that have access to

the company areas should be duly identified. Identification, whether by color number or inscription, should indicate the areas the person is authorized to have access to. Your company should have programs to train all personnel with respect to security policies and practices as part of its operations.

Cargo Handling Security

Security measures should be implemented in the plant during the course of cargo reception and delivery, including handling empty and full containers. Empty containers received at the plant to be stored or filled out should be checked (for general cargo or refrigerated cargo). The check of the empty containers should be made at the time of arrival, and again at the time of filling. Filling containers with cargo should be done with the presence of security personnel. Also, handling full containers from the storage area or from the plant should be security-supervised. Forms or registry books should be kept of all cargos received or delivered. Record the entrance and exit time of all cargo loads, names of persons receiving and delivering, amounts of cargo by packing unit type, packing condition and security seal or stamp. All non-company vehicles should have restricted access to operation areas.

Documents and Data Security

Efficacy of your company's security standards for facilities and operations depend on the control of documents and data. Limit as much as possible access to data or information. Implement clear procedures for documents responsibility and have a secure area for storing documents and information. Careful examination is required of all cargo documents, transportation agreements, invoices, customs documents and others. Only legible documents should be processed; illegible documents should be replaced or else rejected. Documents with which responsibility over cargo is transferred or when a service is provided should be signed by the person delivering it and by the one receiving it. A special control should be in place to handle last minute shipments. Computer information systems represent great help to increase security standards, thus, there should be a system access control mechanism, and preferably a discriminating user ability.

Further Information

A detailed supply chain security guide is also available from Jordan Customs Department. To receive a free copy, please feel free to contact us at:

Jordan Customs Department
P.O. Box 90
Amman, Jordan

Tel: 962-6-462-3186/ 88
Fax: 962-6-464-7791
E-Mail: customs@customs.gov.jo

Appendix 4

Survey of the Willingness of Jordan Supply Chain Companies to Implement Due Diligence and Security Standards and Join the Golden List Program of Jordan Customs Department

A. Survey Cover Letter

Date:

Company Name:

Re: A Survey of the Willingness of Jordan Supply Chain Companies to Join Jordan Customs Department's Golden List Program

Dear Madam/ Sir,

The International Research Corporation, through a grant from the USAID funded AMIR Program, is undertaking a study to promote due diligence standards as a mechanism for Jordan supply chain companies to qualify as members of Jordan Customs Department's Golden List. One element of this study focuses on the "Willingness of Jordan Supply Chain Companies to Join Jordan Customs Department's Golden List Program". To accomplish this particular element of the study, your company's answers to the attached survey are critical.

Please read the "background information" sheets and then answer the attached survey. The whole process does not need more than few minutes of your valuable time.

Best Regards,

B. Survey Questionnaire

Please return the completed survey at fax no. 560-6033 (Amman)

Please read the attached background information before answering the following questions.

1. Please check all items that apply to your company's operations:
a) Importer b) Exporter c) Freight Forwarder
d) Customs Broker d) Transporter e) Qualified Industrial Zone Company (QIZ)
2. Would your company be interested in becoming a Golden List member with Jordan Customs Department?
Yes No (if "No" what is the reason?)
3. If your answer to the previous question is "Yes", do you think your company is ready to work with Jordan Customs Department to find out if your company qualifies to become a member of the Golden List?
Yes No (if "No" what is the reason?)
4. Golden List companies will be offered certain benefits by Jordan Customs Department (for example, reduced frequency of inspections, reduced financial guarantees, expedited clearance times, etc.). What benefits you would like Jordan Customs Department to offer your company?
a)

b)

c)
5. If having a due diligence system implemented at your company will enable it to become a Golden List member, is your company willing to implement such a system?
Yes No
6. If having a due diligence system implemented at your company will improve your business operations in general (regardless of the Golden List), is your company willing to implement such a system?
Yes No (if "No" what is the reason?)
7. As a supply chain company, do you perceive a need to improve your company's security procedures in general?
Yes No (if "No" what is the reason?)
8. After examining the benefits to Jordan of enhancing supply chain security (as listed on the attached sheets), do you think your company should enhance its own security procedures?
Yes No (if "No" what is the reason?)

Company Name: Telephone No.:

Please return the completed survey at fax no. 560-6033 (Amman)

C. Background Information

(Please Read Before Answering the Survey Questions)

What is Jordan Trade Supply Chain?

Jordan trade supply chain companies include Jordanian importers, exporters/ manufacturers, freight forwarders, in-land and ocean transporters, warehouse operators and customs brokers. Jordan trade with other countries depends heavily on Jordan supply chain companies. The economic and developmental benefits to Jordan from international trade can not be realized without these companies.

What is Jordan Customs Department's Golden List Program?

Jordan Customs Department has launched a voluntary program, called Golden List Program. The specific aspects of this program are currently being developed. Supply chain companies that are "exercising due diligence" (explained below), have a good compliance history with the Customs Department and compliant with Jordan customs law and regulations might qualify to become a golden list member. Golden list companies will enjoy a preferred treatment by Jordan customs in the form of certain incentives; for example, reduced frequency of inspections by customs, pre-arrival clearance of goods, minimum levels of financial penalties, goods release before completing customs formalities, lesser financial securities (guarantees), reduced documentations and paper work requirements, clearance of goods during off-work hours, expedited clearance times of customs transactions, etc. Companies that do not qualify to become a member of the golden list can work jointly with Jordan customs to make certain improvements to enable them to join.

What does "Due Diligence" Mean?

Within the trade community, due diligence for a supply chain company means developing and implementing a system of procedures to carry out business operations in the "best way possible". The "best way possible" means complying with Jordan customs law and regulations, complying with international and local trade laws (e.g. export and import laws) and complying with the relevant industry best practices. The processes within the company to insure future compliance must also be documented. Companies that have due diligence procedures in place are better equipped to become a Golden List member.

Examples on Due Diligence

The following examples are aimed at explaining the due diligence system as applied to Jordan supply chain companies. (It should be noted that detailed and separate due diligence lists for Jordan importers, exporters, freight forwarders, warehouse operators, transporters and customs brokers, are or in the near future will be available at Jordan Customs Department).

- *Example 1:* A Jordan import/ export company that has an up-to-date record of the Jordan customs law and Jordan customs regulations, instructions and directives is exercising due diligence.
- *Example 2:* A Jordan customs brokerage/ freight forwarding company that has a well-maintained record of all Jordan customs-related paperwork (or electronic files) for each customs transaction is exercising due diligence.
- *Example 3:* A Jordan import/ export company that contracts with a customs brokerage company to clear its customs-related transactions should have enough information about the broker's background or experience. A due diligent import/ export company would have a written list of the required qualifications expected from its broker.

- *Example 4:* A Jordan trucking carrier that does not have a tracking system of all its operating fleet is not a due diligent carrier. A due diligent carrier would have a system in place to know where every single truck is at any point of time.
- *Example 5:* As a Jordan exporting company, do you have adequate information about the reputation of the local/ foreign carrier that transports your exports to other countries? A due diligent exporter surely has this information.
- *Example 6:* As a Jordan supply chain company, regardless of your line of business, do you have a good accounting system in place? Is this system detailed enough to show all your import/ export transactions in terms of goods types, quantities, prices, etc.? If yes, then you are practicing due diligence.

What are the Benefits of Due Diligence?

- *Preferential Treatment by Customs:* for example, reduced frequency of inspections by customs, pre-arrival clearance of goods, goods release before completing customs formalities, lesser financial securities (guarantees), etc. (Due diligent companies have better chance to qualify as a member of Jordan Customs Department's Golden List.)
- *Reduced Customs Transactions Costs:* Due diligent companies, because of the trust placed on them by Customs, enjoy an expedited processing for their transactions. Of course, this translates into cost savings and competitive advantages.
- *Due Diligence is a Marketing Tool:* The trade community in one country is linked to the trade communities in other countries. For example, a due diligent importer in the United States of America would prefer a due diligent exporter/ manufacturer from Jordan as a trade partner. Therefore, a Jordanian exporter/ manufacturer that exercises due diligence would gain preference over other exporters from Jordan or from other countries.
- *Due Diligence is an International Mandate:* In the developed world, all supply chain companies are already in the race of showing off their due diligence systems. This means, in the near future, almost all international trade activities will be carried out by due diligent supply chains. Thus, is extremely important for Jordan supply chain companies to realize that due diligence systems are not anymore a choice, rather, they are an international mandate.
- *Due Diligence is Specially Important for Jordan Supply Chain Companies:* Compared to other countries, Jordan supply chain companies will benefit more from implementing due diligence. The first reason is that the US and the European Union Countries are the pioneers in due diligence; Jordan has free trade agreements to capitalize on with these countries through the utilization of due diligence. The second reason is that Jordan will be among the first of few developing countries, and the first in the Middle East region, to implement due diligence, thus, will reap its benefits earlier.
- *Due diligence is a Management Tool:* Managements of supply chain companies frequently employ due diligence as a management tool to encourage the careful assessment of business operations, and the reasonable steps required to avoid making mistakes.
- In other countries and potentially in Jordan, participation in a documented due diligence system can result in decreased company liability insurance premiums.

What does Supply Chain Security Mean?

Supply chain security means developing and implementing certain measures and procedures to protect cargo shipments and the documents related to these shipments. Jordan cargo shipments exported to other countries, for example, will enter other countries easily if we can prove to other countries that our shipments are secure. Thus, Jordan exporters will have a competitive advantage selling goods to importers from other countries.

Why Supply Chain Security is Important to Jordan?

- Supply chain security has become an international mandate. It is expected in the near future that all international trade activities will be carried out through secure-only supply chains.
- Supply chain security reduces customs clearance times at borders. Thus, Jordan companies implementing security management systems will have a competitive trade advantage over others.
- Supply chain security has become a powerful marketing tool. Jordan companies implementing security management systems will be preferred as trade partners over other companies.
- Enhanced security will prevent illegal intervention in the supply chain which could cause serious delays and hence considerable economic damage.
- Enhanced security in the supply chain will reduce theft and damage.

Examples on Supply Chain Security

- **Personnel Security:** A secure company would have a detailed application form to be filled out by all candidate employees. Answers by an applicant would be handwritten and the form duly signed. Previous work history and personal character would always be verified from previous employers.
- **Physical Security:** Physical security focuses on securing a company's buildings, premises, storage areas, parking, gates, etc. All buildings used for cargo storage would be secure enough to prevent illegal entry. Perimeter fencing would be installed to avoid access of non authorized vehicles or individuals. Facilities where large amounts of cargo are handled, especially for export purposes, would have guards and booths in all vehicle entry and exit gates during working hours.
- **Operations Security:** A company representative would be appointed as a security officer in charge of all security duties. All people working in sensitive jobs, especially those responsible for cargos, documents and valuable items, would go through a careful pre-hiring background checks.
- **Cargo Handling Security:** Empty containers received at the plant to be stored or filled out would be checked at the time of arrival, and again at the time of filling. Filling containers with cargo would be done under security personnel's supervision. Forms or registry books would be kept of all cargos received or delivered.
- **Documents and Data Security:** Access to data or information would be limited to the employees in-charge only. Clear procedures for documents responsibility and storage would be implemented. Only legible documents would be processed; illegible documents would be replaced or else rejected.

Appendix 5

Jordan Customs Law Articles Identified as Relevant to the Concept of Due Diligence

This appendix contains all Jordan customs law (Law No. 20 for the Year 1998) articles identified as relevant to the concept of due diligence. Titles and chapter numbers and descriptions under which each relevant article appeared in the law were reserved before the article itself.

Chapter Two

Distinctive Characteristics of Goods

Section 2 :Customs Value

Article 31:

A- Whenever it is impossible to determine the customs value in accordance with the provisions of Articles 28, 29, 30, of this Law, then it is determined in accordance with grounds of appropriate instructions which are not controversial to the provisions of these Articles based on the information available at any Governmental Authority in the Kingdom, however , it is not possible to determine the customs value under the following points:-

1. The sale price for locally produced goods in the Kingdom.
2. The value which is higher than alternative values.
3. The price of goods in the local market of the exporting country.
4. The other production cost other than the computed amount which has been determined for identical goods or similar goods in accordance with the provisions of paragraph (D) of Article (30) of this Law.
5. The price of the sold exported goods to a country other than the Kingdom.
6. Random values.
7. Minimum price for the customs values.

B- The importer shall be informed in writing, upon his request, of the bases adopted in determining the customs value under the provisions of paragraph (A) of this Article.

C- Every declaration must be accompanied by an original list (invoice) attested by the chamber of commerce of the city where the commodity has originated or by any agency acceptable for the Department, in confirming the authenticity of prices and origin. These documents shall also be attested by the Jordanian Consular Missions and in case such Missions do not exist, the attestation of the above chambers of commerce and agencies shall suffice .

D- The Director may allow the completion of clearing formalities for the goods, without the presentation of the attested lists, and the required documents, in return for cash guarantee not exceeding 2% or a bank security not exceeding 4% of the goods value for each document, provided that the payer shall be refunded upon presentation of the attested lists and the required documents within (60) days of payment date.

E- It is possible to disregard the attested list or its provisions, wholly or partially, in accordance with instructions issued by the Minister upon a recommendation from the

Director for this purpose, which specify such cases of disregard, and are to be published in the Official Gazette.

F- Where the declared value is calculated in foreign currency, it shall be converted into local currency. The conversion shall be made on basis of rate of exchange duly published by the Central Bank on date of registering the declaration.

G- The Department shall have the right to demand the documents, contracts, correspondences and others relating to the transaction, including letters of credit.

H- The goods' kind, shall be written in the Arabic Language, in compliance with the customs tariff, on invoices issued in a foreign language.

I- Provisions and other necessary conditions for implementing the provisions of Articles (28,(29),(30) and (31) of this Law shall be identified under instructions issued by the Manager for this purpose.

J- For the purposes of customs being valued, it is prohibited for the Department to declare any confidential information which is given on a secret base as well as it is prohibited to declare such information unless with a written permission from the person or department which has submitted such information, excluding what is required to be declares by any judicial department.

TITLE FOUR

Entry and Exit of Goods

Chapter Two

Prohibition and Restriction

Article 39:

A - The specified prohibited goods shall be seized even if they are declared under their real nomenclature, unless they are licensed in advance to enter or exit the country.

B - Other prohibited goods whose real nomenclature are declared shall not be seized but shall be returned to the outside or inside the Kingdom as appropriate.

C - The official customs formalities shall not be allowed for any goods whose importation or exportation depends on the issue of a license, permit, certificate or any other document before obtaining the required document.

Title Five

Customs Clearance Stages

Chapter One

Customs Declarations

Article 61:

1-Upon clearing any goods, even if exempt from duties and taxes, a customs declaration shall be presented to the customs center, such declaration shall be organized-:

A- In writing, or:

B- By using information or data processing methods whenever such methods are required and in accordance with directives issued by the Director . The provisions applied to the written declaration shall apply to this kind of declaration as well.

2 -The Director shall specify the forms of declarations and the media for their submission , in addition to the number of copies, their prices, the information they must contain , the documents which shall be attached to the declarations as well as the information contained in such documents .

Article 66:

A- The customs authorities may cancel the registered declaration of which the due duties and taxes are not paid or those not completed , after the elapse of 15 days from the date of registration , due to reasons connected with the person who submitted them.

B- The Department may agree to the cancellation of the declarations upon a request from the person who submitted them as long as due duties and taxes have not been paid . In case of a violation, cancellation shall not be allowed until such violation has been settled. However, amending the rates of duties and taxes or changing the exchange rates of foreign currencies shall not prevent a response to the application for cancellation.

C- In all these cases, the Department shall have the right to request inspection of the goods in the presence or absence of the declarer after duly advising him of the date for such an inspection.

Chapter Two

Inspection of Goods

Article 69:

Following the registration of the customs declaration the customs official concerned shall inspect goods wholly or partly according to the instructions issued by the Director.

Chapter Three

Article 80:

A- The Minister shall appoint a special committee consisting of three senior officials from the Department, to look into disputes concerning the value, origin , characteristics or tariff classification of goods .

B- In case of a dispute between the concerned parties and the Department , such dispute shall be referred to the said committee which may consult the experts and technicians, whose help the committee may need.

C- The Director shall issue his decision upon the recommendation of the committee.

D- The Director's decisions may be contested before the Customs Court within 15 days from the date of notification thereof.

E- The goods may be delivered prior to the settlement of the dispute mentioned in paragraph A of this Article according to the conditions, procedures and guarantees specified by the Director . Samples of the goods in question shall be kept with the Department.

F- Customs duties and other fees and taxes not included in the dispute shall be levied for the revenue . While customs duties, other fees and taxes, under dispute shall be levied via a deposit or a bank guarantee until settling of the dispute.

Chapter Five

Payment of Duties and Taxes and Withdrawal of Goods

Article 83:

Taxable persons may withdraw their goods before the final assessment of due duties and taxes against a bank or a cash guarantee and under the conditions and rules specified by the Director.

Article 84:

A- The customs authorities may with the Director's approval and after the release of the goods, examine the customs and commercial documents and data, relating to the import or export operations in respect of the goods concerned. Inspection and examination of goods may be carried out at the premises of the declarer or any other person directly or indirectly involved in the said operations in a business capacity within a period not exceeding three months from the date of releasing those goods.

B- Where revision of the declaration or post - clearance examination indicates that the provisions governing the customs procedure provided for in this Law, have been applied on the basis of incorrect or incomplete information, the customs authorities shall, in accordance with the provisions laid down, take the necessary measures to correct the situation, taking into account the new information available to them .

Title SIX

States of Pending Duties

Chapter One

General Provisions

Article 88:

It is permitted to admit the goods into the Kingdom and transport them from one place to another within or across the Kingdom, with suspension of the payment of customs duties and other taxes and fees relating to these goods. Under such conditions, guarantees shall be submitted to ensure payment of fees and duties in cash or in bank securities or guaranteed undertakings in accordance with the provisions issued by the Director.

Chapter Five

Inward Processing

(Entry for Processing and Export)

Article 133:

A- Foreign goods are allowed to enter the Kingdom, under the status of pending customs duties and other fees and taxes principally for processing, completion of manufacture or repair whether the beneficiary is a manufacturer or an exporter ,for export purposes within a period not exceeding three years.

B- Goods imported or processed may be exported by other than the importer upon the approval of the Director or whomever he authorizes, in which case all the importer's commitments shall be transferred to the exporter.

C- Sale of goods admitted to the country may be allowed from one manufacturer to another, provided that the original purposes of importing are fulfilled by the buyer.

D- Goods benefiting from this status as well as the guarantees required to benefit from the provisions of this Article and any other conditions necessary for this status shall be determined via instructions issued by the Director.

Title Seven

Simplification of Customs Procedures

Article 148:

For the purpose of simplifying procedures and despite that, stated upon in Article 69 of this Law, the Minister may waive the procedures regarding the inspection of goods and be satisfied with the presented documents for the direct clearance of those goods under provisions and terms issued by the Director and published in the Official Gazette.

Title Ten

Customs Clearance Agents

Article 167:

A- The customs clearance agent shall be responsible before the persons to whom the goods are dispatched and before the Department and the investing bodies of the stores and warehouses and the Free Zones for the actions of his employees whom he must give an authorization prepared in accordance with the provisions of this Law and deposited with the Department.

B- Before the license is granted, the applicant must submit a bank guarantee specified by the Director, provided that it will not be less than 5000 Dinars. This security shall serve as a guarantee for the subsequent responsibilities which the agent and his employees shall have to bear as a result of their dealings. The Director may increase the value of the guarantee.

Article 170:

The clearance agent must keep, under penalty of suspension, a record in which he shall record a summary of the customs formalities carried out by him for others, in the past three years, within the conditions determined by the Director. He shall record, in particular, the duties paid to the customs, the charges paid to the clearance agent and any other expenses made in connection with the formalities. The Department has the full authority to inspect these records at any time without objection from the clearance agent.

Title Twelve

Chapter Two

Investigation of Smuggling

Article 183:

A- When charged with investigating and scrutinizing, the Department's officials may examine the bills of lading, lists, commercial correspondences, contracts, records and all other documents and deeds, of whatever kind, that may be related directly or indirectly to customs operations, and to seize them if necessary, from any party whatever, relating to the customs operations. These parties must keep these records, bills and documents for a period of three years.

B- The authorized officials of the Department, may arrest anyone without a warrant if caught red handed .

Chapter Three

Customs Offenses and Penalties.

Section Two

Customs offenses and their Penalties

Article 198:

A- Except for cases falling under the category of smuggling, which are covered by Article 204 of this Law, a fine not more than half the amount of due duties and taxes shall be imposed on the following :

- 1- The unjustified shortage in cargo listed in the maritime manifest or its substitute.
- 2- Inconsistent declaration in which the real value has been confirmed to be not exceeding 10% of the declared value, 10% of weight, number or measurement, provided that the goods are not prohibited.
- 3- Statements showing the status of consumption which is violating in its amount or quantity or kind and which is related to the used home applications which are coming with those who arrive to Jordan for a permanent stay in the Kingdom and they have no commercial title.

B- Except for cases falling under the category of smuggling, covered by Article (204) of this Law, a fine not more than double the duties or half the goods value whichever is less, shall be imposed on the following offenses .

- 1- The offending declaration which may lead to benefiting from the refund of duties and taxes, or clearing the records of goods under temporary entry, or goods imported for processing and export purposes, the duties of which exceed 500 JD, without having the right to do so.
- 2- The unjustified increase over what has been listed in the cargo manifest or its substitute. If the increase contains parcels bearing the same signs and numbers borne by other parcels, the extra parcels shall be considered as being subject to higher fees or subject to prohibition rules.
- 3- The unjustified decrease from what has been listed in the land or air cargo manifest or its substitute, whether such a decrease occurs in the number of parcels or their contents or in the quantities of bulk goods.
- 4- The use of items covered by exemptions or reduced tariff for a purpose other than that for which they have been imported . The same fine shall be imposed on exchange or sale or disposal of the above items in an illegal manner and without the Department's prior approval, and without submitting the necessary documents.
- 5- The sale of goods accepted, under suspended duties status, their use outside the permitted areas or for purposes other than those for which they are imported, or allocation for a purpose other than that for which they are designated, or their replacement or disposal in an unlawful way before notifying the Department and presenting the necessary documents.
- 6- Recovery of duties and taxes the value of which exceeds 500 JD without having the right to do so.

c- By considering what has been set forth in paragraph (B) of Article (199) of this law a fine of not less than half the fees and taxes shall be imposed on the offending transit statements and manifests which violate in value or kind or quantity or weight or measure or origin.

Article 199:

Except for cases falling under the category of smuggling, covered by Article 204 of this Law, a fine of no less than 50 JD and not more than 500 JD shall be imposed on each of the following offenses .

A- The offending export declaration which may lead to evading the restrictions of export license or retrieving currency.

B- The offending declaration which may lead to benefiting from the refunding of duties and taxes, or clearing the records of goods under temporary entry or goods imported for processing and export purposes, whose duties do not exceed 500 JD.

C- Transport of passengers or goods within the country by vehicles acceptable under suspended duties status, in violation of the provisions of Laws and regulations.

D- Changing the route specified in the transit or re-export declarations without the Department's approval.

E- Removal of lead, buttons or erasing the customs seals off, goods dispatched by transit, or for re-export.

F- Presentation of the specified certificates necessary for the discharge and settlement of the transit manifests, the temporary entry undertakings, the inward processing of suspended duties status or re-export, after the expiry of the delay periods specified for that purpose.

G- Breaching any of the legal conditions and provisions of transit, inward processing, temporary entry or re-export, contained in the customs regulations issued according to this Law .

H- Offenses against the provisions relating to public and private warehouses . This fine shall be collected from proprietors of, or investors in the said warehouses.

I- Existence with the concerned persons of more than one manifest or its substitute.

J- Possession or circulation within the customs limit, of goods subject to the control of that customs limit's officership, in an illegal manner or in a manner contravening the contents of the transport bill for the goods .

K- Ferrying by ships whose load capacity is less than 200 tones of restricted, prohibited goods, goods subject to heavy duties or specified prohibited goods, within the sea customs limit, whether the goods are mentioned in the cargo manifest or not. The same applies when such ships change their course inside the sea customs limit under circumstances other than those resulting from maritime emergency or force majeure.

L- Anchoring of ships, landing of planes or parking of other transport means, in places other than those set out for them and which are licensed by the Department.

M- Departure of ships, planes and other transport means from the harbor, or the customs zone without a license from the Department.

N- Anchoring of ships of any load capacity and the landing of planes, at harbors and airports other than those set out for those purposes, whether this is in normal or emergency cases, without notifying the nearest customs center.

O - The transfer of goods from one transport means to another or the re-export of these goods without an authorized declaration or license.

P- The loading and unloading of ships, trucks or cars and other transport means and the withdrawal of goods without a license, from the Department, or in the absence of the Department's personnel, or outside the hours set for that, or in violation of the conditions determined by the Department, or unloading the goods at places other than those allocated for that purpose.

Q- Obstructing the Department's officials from carrying out their duties and exercising their right to search, check and inspect, and non compliance with the demand to stop This fine shall be imposed on anyone who takes part in such an offense .

R- Failure to keep records, documents and similar items, during the period prescribed in Article (183) of this Law, or failure to present these records and documents.

S- Failure by customs clearance agents to abide by the customs regulations which specify their duties. In addition to the professional penalties that may be applied in this regard, in accordance with the provisions of Article (168) of this Law.

T- The verified shortage in goods at stores after being delivered in an apparently sound condition.

U- Goods which have escaped seizure and is impossible to determine their value, quantity or kind, without this hindering prosecution on charges of smuggling.

V- Retrieval of duties or taxes not exceeding 500 JD in value, without the right to do so. .

W- The transit declarations which are offending in value or quantity or weight or measure or origin and which are discovered at the exit customs centers.

Article 200:

Except for cases falling under the category of smuggling, a fine of 25 - 100 JD shall be imposed for the following offenses .

a- Stating in the Declaration, information contrary to the documents attached thereto, Such a fine shall be levied from the declarer.

b- Listing several closed parcels put together in whatever way, in the manifest or its substitute as being one parcel. In this case, Article 60 of this Law concerning containers, pallets and trailers shall be observed.

c- Failure to present the manifest or its substitute, and the other documents referred to in Article 43 of this Law upon entry or exit, and also the delay in presenting the manifest or its substitute beyond the period prescribed in the same Article.

- d- Non existence of a formal cargo manifest or its substitute, or the existence of a manifest contrary to the reality of the cargo.
- e- Failure to mark the manifest by the customs authorities, at the shipment place in cases where such marking is essential in accordance with the provisions of this Law.
- f- Neglecting to list what should be listed in the manifest or its substitute.
- g- Importation by mail of closed parcels or unlabelled cans, in violation of the provisions of Arab and international postal agreements, and the national legal provisions in force.
- h- Commencing to recover duties and taxes without having the right to do so.
- i- Every other contravention to the provisions of this Law, regulations, decisions and instructions enforcing them.